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SUPREME COURT OF THE UNITED STATES.

No. ~~241~~ 31

CHARLES B. WALLACE, APPELLANT,

vs.

FRANCIS B. LOOMIS, JOHN C. STANTON, AND DANIEL N. STANTON, TRUSTEES OF THE FIRST-MORTGAGE BOND-HOLDERS OF THE ALABAMA AND CHATTANOOGA RAIL-ROAD COMPANY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF ALABAMA.

FILED NOVEMBER 21, 1874.

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1 *Original bill.*

Southern district of Alabama, at Mobile. In equity.

To the honorable the judges of the circuit court of the United States for the southern district of Alabama exercising chancery jurisdiction in the said southern district at Mobile, in the State of Alabama.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Alabama and Chattanooga Railway Company, complainants,

vs.

THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chattanooga Railway Company, defendants.

The complainants respectfully show to the court that they are non-residents of the State of Alabama; that the said Adams and
2 Stanton are citizens of and reside in the State of Massachusetts, and the said Loomis is a citizen of and resides in the State of Connecticut; that your complainants are the trustees duly appointed and acting as such under the deed of trust or mortgage hereinafter set forth; that the Alabama and Chattanooga Railroad Company, defendant, is a corporation created by and existing under certain laws of the State of Alabama, to wit, an act of the legislature of the said State, entitled "An act to charter the Wills Valley Railroad Company," approved February 3rd, 1852; an act of said legislature entitled "An act to incorporate the Northeast and Southwest Alabama Railroad Company," approved December 12th, 1853; an act of the said legislature entitled "An act to authorize the consolidation of the Northeast and Southwest Alabama Railroad Company with the Wills Valley Railroad Company, and to provide for the organization of the corporation formed by such consolidation and to give it the benefit of the State's indorsement of its bonds, and to regulate said consolidation," approved October 8th, 1868; an act of the said legislature entitled "An act
3 relating to the Wills Valley Railroad Company and the Northeast and Southwest Alabama Railroad Company," approved November 17th, 1868, and the several acts supplementary to and amendatory of the acts above entitled. The said corporation own and operate a railway in the States of Alabama, Georgia, Mississippi, and Tennessee.

The complainants further allege that the other defendants named in the above-entitled action have, or claim, some interest in the property mentioned in the deed of trust hereinafter set forth, but the extent and nature of said interest is not known to your complainants, and they pray that the said defendants may set forth the same fully and at large.

That on or about the 19th day of December, in the year eighteen hundred and sixty-eight, the said The Alabama and Chattanooga Railroad Company executed and delivered to your complainant, Seth Adams, and to Francis Dane and John Demeritt, as trustees upon the certain
4 trusts therein specified, their certain instrument known as the first mortgage and trust-deed of the Alabama and Chattanooga Rail-

road Company, a copy of which is hereto attached as forming a part hereof, and is marked "Exhibit A."

That the said company issued a large number of bonds, to secure the payment of which bonds said deed of trust was executed; that said bonds were each for the payment of the sum of one thousand dollars, payable on the first day of January, 1889, with interest at the rate of eight per cent. per annum, payable in gold coin semi-annually, on the first days of January and July in each year. And it was further provided that said bonds should be issued, and the said deed of trust to secure payment of the same, for the purpose of raising funds for the completion of the construction and equipment of the railway of said company, to an amount not exceeding at the rate of sixteen thousand dollars per mile of railroad by said company constructed.

That a copy of the bond so issued is hereto attached as forming a
5 part hereof, marked "Exhibit B."

That all of the bonds so issued by the said company were of same tenor and effect and alike in every respect to the one marked "Exhibit B," save that the bonds so issued were numbered consecutively from one up to the highest number issued at said rate of sixteen thousand dollars for every mile of railway by said company constructed; and that, except as to the mere number on each of the said bonds, the Exhibit B hereto attached contains a copy of each of the said bonds so executed and signed, as well as a copy of the agreement of the corporation to pay the principal and interest of said bonds in gold, and as well the indorsement made on each of said bonds by the governor of the State of Alabama.

That the number of said bonds which were indorsed by the governor of the State of Alabama was five thousand two hundred and twenty, amounting in the aggregate to not less than five million two hundred and twenty thousand dollars; that the bonds which were so in-
6 dorsed by the said governor were not numbered consecutively from one to fifty-two hundred and twenty; that the form of said indorsements of said bonds by said governor is shown in said Exhibit B.

The complainants further state that the said railway has no terminus in the State of Alabama; that its western terminus is at Meridian, in the State of Mississippi, and its eastern terminus is at Chattanooga, in the State of Tennessee; that the length of said railway is about two hundred and ninety-five miles.

Your complainants further aver that all of the said bonds of the Alabama and Chattanooga Railway Company which were indorsed by the governor of Alabama as aforesaid were issued and disposed of to various persons whose names and residences are wholly unknown, except as hereinafter shown; that the holders of the said bonds claim and pretend that each of these bonds is embraced in and secured by said first mortgage, being Exhibit A, and constitutes a lien upon the property, assets, and franchises of said railway company, and is entitled
7 to priority over other liens on said railway. That the interest which became due on said bonds on the first days in January and July, 1871, and on the first day of January, 1872, was not paid by said company, but a large portion of the amount so becoming due and payable was paid by the governor of the State of Alabama; and the said governor claims that by reason of such non-payment by said company and by reason of such partial payment of such interest by him he had a right to appoint a receiver with authority to take possession, control, and management of said railway and its equipments within the State of Alabama, and to so hold and operate the same until the net earnings of

the same should be sufficient to pay off the interest so unpaid by said corporation.

That John H. Gindrat was appointed such receiver and took the possession and control of said railroad in the State of Alabama. That said receiver attempted to operate said railway not only in the State of Alabama but also in the State of Mississippi to the entire exclusion of said railroad corporation and to the irreparable injury of said corporation, of the complainants, and of the other creditors of said railroad company.

8

That there was no authority or even any color of right for such action on the part of said governor and the said receiver.

That owing to the hasty construction of said road and the insufficient equipment thereof for the successful operation of the same, it was impossible that any net earnings could be realized from the operation of the road; that the governor had no authority to make such addition to the motive power or equipments or to repair the railway; and the said governor turned over said road to other parties without color of authority.

That afterwards, as complainants are informed and believe, the said governor and the receiver in some manner combined with certain others, whereby the said receiver retired from his said pretended trust and caused to be instituted, or aided in the prosecution of, certain proceedings in bankruptcy before the Hon. Richard Busteed, United States district judge for the middle district of Alabama, against the said company, under which proceedings the said John H. Gindrat was, with Samuel B. Jones and John F. Bailey, appointed assignees in bankruptcy of the said company.

9

Your complainants state that after the seizure of said railway by the said governor of Alabama under the supposed authority aforesaid, and whilst said railway was in the possession, use, and operation of the said Gindrat as receiver, the said governor of Alabama, on or about the day of , 1871, caused a certain proceeding to be instituted in behalf of the State of Alabama in the chancery court of said State for the county of Sumter, setting up among other matters the failure of the Alabama and Chattanooga Railway Company to pay interest upon the said first-mortgage bonds of said company, and praying, among other matters, the appointment of a receiver and the foreclosure of said mortgage. That the chancellor of said chancery court, in accordance with the prayer of said proceeding, appointed Charles Walsh, a resident citizen of said southern district of Alabama, a receiver of that portion of the Alabama and Chattanooga Railway in the State of Alabama, the said Walsh qualifying as such. A copy of said proceedings, with all the orders, entries, and a copy of the bond of said Walsh is hereto attached, marked "Exhibit one," as part of complainants' complaint.

10

Complainants state that on or about the day of , 1871, under a proceeding or petition filed at the instance of the said governor of Alabama, in the district court of the United States for the district of Mississippi, the said Walsh was appointed by the judge thereof as receiver of that part said railway in the State of Mississippi, and the said Walsh qualified as such receiver, and for a time took possession, used, and operated said railway under said appointment; that some time after said appointment the said Walsh leased or permitted the Mobile and Ohio Railway Company, a corporation chartered under the laws of Alabama, and whose principal office is in the city of Mobile, in said southern district of Alabama, to possess, use, occupy,

road Company, a copy of which is hereto attached as forming a part hereof, and is marked "Exhibit A."

That the said company issued a large number of bonds, to secure the payment of which bonds said deed of trust was executed; that said bonds were each for the payment of the sum of one thousand dollars, payable on the first day of January, 1889, with interest at the rate of eight per cent. per annum, payable in gold coin semi-annually, on the first days of January and July in each year. And it was further provided that said bonds should be issued, and the said deed of trust to secure payment of the same, for the purpose of raising funds for the completion of the construction and equipment of the railway of said company, to an amount not exceeding at the rate of sixteen thousand dollars per mile of railroad by said company constructed.

That a copy of the bond so issued is hereto attached as forming a
5 part hereof, marked "Exhibit B."

That all of the bonds so issued by the said company were of same tenor and effect and alike in every respect to the one marked "Exhibit B," save that the bonds so issued were numbered consecutively from one up to the highest number issued at said rate of sixteen thousand dollars for every mile of railway by said company constructed; and that, except as to the mere number on each of the said bonds, the Exhibit B hereto attached contains a copy of each of the said bonds so executed and signed, as well as a copy of the agreement of the corporation to pay the principal and interest of said bonds in gold, and as well the indorsement made on each of said bonds by the governor of the State of Alabama.

That the number of said bonds which were indorsed by the governor of the State of Alabama was five thousand two hundred and twenty, amounting in the aggregate to not less than five million two hundred and twenty thousand dollars; that the bonds which were so in-
6 dorsed by the said governor were not numbered consecutively from one to fifty-two hundred and twenty; that the form of said indorsements of said bonds by said governor is shown in said Exhibit B.

The complainants further state that the said railway has no terminus in the State of Alabama; that its western terminus is at Meridian, in the State of Mississippi, and its eastern terminus is at Chattanooga, in the State of Tennessee; that the length of said railway is about two hundred and ninety-five miles.

Your complainants further aver that all of the said bonds of the Alabama and Chattanooga Railway Company which were indorsed by the governor of Alabama as aforesaid were issued and disposed of to various persons whose names and residences are wholly unknown, except as hereinafter shown; that the holders of the said bonds claim and pretend that each of these bonds is embraced in and secured by said first mortgage, being Exhibit A, and constitutes a lien upon the property, assets, and franchises of said railway company, and is entitled
7 to priority over other liens on said railway. That the interest which became due on said bonds on the first days in January and July, 1871, and on the first day of January, 1872, was not paid by said company, but a large portion of the amount so becoming due and payable was paid by the governor of the State of Alabama; and the said governor claims that by reason of such non-payment by said company and by reason of such partial payment of such interest by him he had a right to appoint a receiver with authority to take possession, control, and management of said railway and its equipments within the State of Alabama, and to so hold and operate the same until the net earnings of

the same should be sufficient to pay off the interest so unpaid by said corporation.

That John H. Gindrat was appointed such receiver and took the possession and control of said railroad in the State of Alabama. That said receiver attempted to operate said railway not only in the State of Alabama but also in the State of Mississippi to the entire exclusion of said railroad corporation and to the irreparable injury of said corporation, of the complainants, and of the other creditors of said railroad company.

8

That there was no authority or even any color of right for such action on the part of said governor and the said receiver.

That owing to the hasty construction of said road and the insufficient equipment thereof for the successful operation of the same, it was impossible that any net earnings could be realized from the operation of the road; that the governor had no authority to make such addition to the motive power or equipments or to repair the railway; and the said governor turned over said road to other parties without color of authority.

That afterwards, as complainants are informed and believe, the said governor and the receiver in some manner combined with certain others, whereby the said receiver retired from his said pretended trust and caused to be instituted, or aided in the prosecution of, certain proceedings in bankruptcy before the Hon. Richard Busteed, United States district judge for the middle district of Alabama, against the said company, under which proceedings the said John H. Gindrat was, with Samuel B. Jones and John F. Bailey, appointed assignees in bankruptcy of the said company.

9

Your complainants state that after the seizure of said railway by the said governor of Alabama under the supposed authority aforesaid, and whilst said railway was in the possession, use, and operation of the said Gindrat as receiver, the said governor of Alabama, on or about the day of , 1871, caused a certain proceeding to be instituted in behalf of the State of Alabama in the chancery court of said State for the county of Sumter, setting up among other matters the failure of the Alabama and Chattanooga Railway Company to pay interest upon the said first-mortgage bonds of said company, and praying, among other matters, the appointment of a receiver and the foreclosure of said mortgage. That the chancellor of said chancery court, in accordance with the prayer of said proceeding, appointed Charles Walsh, a resident citizen of said southern district of Alabama, a receiver of that portion of the Alabama and Chattenooga Railway in the State of Alabama, the said Walsh qualifying as such. A copy of said proceedings, with all the orders, entries, and a copy of the bond of said Walsh is hereto attached, marked "Exhibit one," as part of complainants' complaint.

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Complainants state that on or about the day of , 1871, under a proceeding or petition filed at the instance of the said governor of Alabama, in the district court of the United States for the district of Mississippi, the said Walsh was appointed by the judge thereof as receiver of that part said railway in the State of Mississippi, and the said Walsh qualified as such receiver, and for a time took possession, used, and operated said railway under said appointment; that some time after said appointment the said Walsh leased or permitted the Mobile and Ohio Railway Company, a corporation chartered under the laws of Alabama, and whose principal office is in the city of Mobile, in said southern district of Alabama, to possess, use, occupy,

and operate said railway. That said Walsh, as receiver, now claims the sole right to use, occupy, operate, and hold that portion of said
11 railway within the State of Alabama and the State of Mississippi under the appointment aforesaid, and the said Mobile and Ohio Railway Company claim to operate the same by their agents and employees under authority from the said Walsh, as such receiver, and the said Walsh and the said Mobile and Ohio Railroad Company deny the lawful right or authority in any other person or persons or court to possess, use, occupy, or operate the same. A copy of the said proceedings in the district court of the United States for the said State of Mississippi is hereto attached as part of this complaint, marked "Exhibit two."

Your complainants state that on or about the day of , 1871, the said governor of the State of Alabama caused to be instituted in the name of the State of Alabama in the chancery court of the county of Dade, in the State of Georgia, certain proceedings, praying, among other matters, the foreclosure of said first mortgage and the appointment of a receiver to take charge of that portion of said Alabama and
12 Chattanooga Railway within the said State of Georgia; that under said proceeding, W. T. Wofford, a citizen of said State of Georgia, was by the chancellor thereof appointed receiver of said portion of said railway within said State of Georgia; that said Wofford qualified as such receiver, and since said time has been running and operating said portion of said road within said State to the Alabama line, and also from said line to the city of Birmingham in the State of Alabama; that said Wofford claims the exclusive right to use and operate said portion of said railway within the State of Georgia, under authority aforesaid, and is operating and using that part of said railway from the Alabama line to the city of Birmingham under authority of John H. Gindrat, who claims to have authority to permit such use in the manner hereinafter set forth. A copy of said proceedings is hereto attached as part of this complaint, marked "Exhibit three."

Complainants state that on or about the day of , 1871,
13 the said governor of the State of Alabama, in behalf of the State of Alabama, caused to be instituted certain proceedings in the chancery court for the county of Hamilton in the State of Tennessee, at Chattanooga, praying, among other matters, the foreclosure of said first mortgage, and the appointment of a receiver for that portion of the said Alabama and Chattanooga Railroad situate in the State of Tennessee; that under the said proceeding the said John H. Gindrat was appointed by the chancellor thereof receiver.

Complainants state that upon that portion of said railway situate in the State of Tennessee and city of Chattanooga the company's shops, depots, storehouses, warehouses, and engine-houses, with a large quantity of movable property, was kept; that the estimated value of the movable property was about three hundred thousand dollars, and said Gindrat was required by said chancellor to enter into a bond with sufficient surety in said sum, conditioned for the faithful peformance
14 of his receivership, and to have said property forthcoming to answer any orders made in respect to it; that the surety on said receiver's bond is Robert B. Lindsay, as governor of the State of Alabama, and no other surety. A copy of which said proceedings and orders is hereto attached marked "Exhibit four," and made a part of this bill.

Complainants charge that the property which could be moved belonging to said railway company, and which came into the possession of said Gindrat, as receiver, has been moved away to parts unknown, sold,

or destroyed by said Gindrat and his careless and incompetent employees.

Complainants charge that Robert B. Lindsay had no lawful authority to sign said receiver's bond as surety to bind the State of Alabama; that such signature as governor did not bind the State of Alabama; that the State of Alabama, through its legislature, has, since the execution of said bond, repudiated said unauthorized act by the governor;
15 that said bond (if of any use whatever) could only bind the said governor individually and not the State he purported to act for in the unauthorized and unwarranted attempt to sign said bond as governor; that the said bond is of no value whatever as a security for the injury complained of, particularly as complainants are informed and believe, and so charge, that said John H. Gindrat, as principal, and the said Robert B. Lindsay, as surety, are insolvent, the said Lindsay being a discharged bankrupt, having no property in the State of Alabama or elsewhere subject to levy and execution, and therefore unable to respond to any damage committed or permitted by said receiver, and to-day complainants state that the property aforesaid, of great value, subject to said first mortgage, is totally lost.

Complainants state that the said Gindrat, under the authority conferred by said chancellor to take charge of said railway property in the State of Tennessee, has permitted the said Wofford to use and occupy the shops, warehouses, depots, and stores, and run engines and cars over the track, and permit' the said Wofford to move off the
16 company's stores, wood, iron, engines, cars, and machinery of great value, all of which has been done and permitted by the said Gindrat, as complainants are informed and believe, with the knowledge, consent, and advice of the said Robert B. Lindsay.

Complainants charge that whilst the said Robert B. Lindsay was instituting proceedings in the various courts aforesaid, and procuring the appointment of receivers to take, possess, use, occupy, and operate said railway and the other property of said company under the pretence of protecting the interest of the State of Alabama, did procure the filing of a petition in bankruptcy in the district court of the United States for the middle district of Alabama against the Alabama and Chattanooga Railway Company, under an agreement or understanding with the petitioning creditor, by which agreement or understanding the said Lindsay was to see that all the petitioning creditor's debt and other expenses should be paid; hoping and expecting by such bankrupt proceed-
17 ing said railway would be sold at a sacrifice, he, the said Lindsay, under the pretence of purchasing for the State of Alabama, to become the purchaser. Complainants are informed and believe and so charge that said purchase was only pretended to be for or on account of the State of Alabama, when in truth and in fact said purchase was made under an agreement and arrangement with other persons before said sale that the said railway and other property should be in fact purchased for such other persons and not for the State of Alabama.

Complainants state that on or about the day of , 1871, several months before the said proceedings in bankruptcy or the appointment of receivers by any of said courts, the said Robert B. Lindsay, under some pretended authority, appointed the said John H. Gindrat, his then and now private secretary, a special receiver of said railway and property of said company; that said Gindrat, as such private secretary or receiver, took possession of said railway and other property of said company forcibly from the officers, agents, and employees
18 of said company, and the said Gindrat used and operated said

railway, and the supplies and stores of said company; that during said use and occupancy, said Gindrat and Lindsay received the earnings of said railway to a large amount, that is to say, to the amount of one thousand dollars per day. Complainants charge that said Gindrat, private secretary and receiver, gave no bond or security whatever for the faithful discharge of the duties imposed on him; that said Lindsay demanded no such bond, but permitted said Gindrat to take possession of said property of the value of not less than ten million dollars, without any bond whatever, and complainants charge that neither the said Lindsay nor the said Gindrat have accounted to said railway company or to any court whatever for the earnings of said railway or other property taken and used by them; that the said Gindrat and the said Lindsay claim now not to have relinquished or abandoned any right

19 to the possession, use, and occupation of said railway and other property seized and forcibly taken from said railway company under the pretended authority aforesaid; that said Gindrat and said Lindsay are citizens of the State of Alabama; that said Gindrat was notified that the said Lindsay was a certified bankrupt, and said Lindsay well knew said Gindrat was totally insolvent when the matters complained of took place.

20 That under the control of the said so-called receiver and the so-styled assignees, the railroad was so managed by them that by reason of their failure to make repairs, want of due care, and a lack of necessary skill and ability to operate the said road, the said road-bed and railway property have greatly deteriorated in value and are rapidly going to waste and destruction, and said road has not since said persons took possession paid the expenses of operating the same; that the road-bed has been injured by lack of care and exposure to the weather; iron rails have been carried away and sold to other parties, and the other property of the company greatly damaged, by reason of all which action the interest of the bondholders represented by the complainants has been greatly impaired and the property of the company has ceased to be sufficient security to such bondholders that their claims will be paid.

21 That by reason of such seizure by the said receiver, appointed by said governor, all "through" passenger, express, and freight business, including the carriage of the United States "through" mails, have been diverted to other railways, to the great loss and damage to said company and to the bondholders represented by the complainants.

The complainants further state that in addition to the above-mentioned indebtedness of said company to the holders of the bonds issued under the said first mortgage, the said company are indebted to the holders of certain bonds issued under what is known as the second mortgage and trust-deed, in which the defendants, Lippitt, Rice, and D. N. Stanton, are named as trustees; but what amount of bonds were issued thereunder, by whom held, and where such holders reside, is all unknown to complainants.

That besides the said mentioned indebtedness by bonds, the said company are indebted in large sums of money to various parties, amounting in the aggregate to over two million of dollars; and besides the said company is indebted to laborers and employes in a sum at least of four hundred thousand dollars.

22 That as is hereinafter stated, the said State of Alabama has paid a large sum of money on account of interest matured on said bonds, and that the State of Alabama claims a lien on said rail-

way and the property incident thereto, of the said company for the amount so paid.

And your complainants aver that the property of said company, if properly administered, protected, improved, and managed, is and will be sufficient to pay off all the indebtedness of said corporation; but that from adverse circumstances which have and now do exist, and which are beyond the control of said corporation, and which will continue to be under the control of said corporation without the aid of this honorable court, the said corporation is unable to continue its business and to operate said road, and have been compelled to discontinue the operation of its said railway; that said railway, its road-bed, superstructure, and motive power, is rapidly deteriorating and going to ruin, and
23 the rolling-stock and equipments seized, misused, and wasted by irresponsible persons who have or pretend to have pecuniary claims against said company.

That without the aid of a court of equity, the complainants are informed and believe the fact to be that said railroad company cannot be freed from the existing dangerous complications, or be properly managed, or that the property of said corporation can be rescued from further deterioration, and preserved from sacrifice, waste, and destruction, and from irreparable injury.

Your complainants state that by reason of the conflicting claims set up to said railway and other property belonging to said company, by the various receivers and assignees, each receiver and assignee denying authority in the other to run, operate, or control the said railway, and other property of said company, the said assignees and receivers, acting under authority of various courts along the line of said railway, each court claiming for its appointees the sole and exclusive right to take, possess, use, and operate said railway under the orders
24 issued from said courts, that injunctions have been issued from some of the said courts against the receivers of the other; threats have been made by the chancellor of one of the courts to imprison the judge and assignees of another court for disobedience of orders issued by such chancellor; that in the great uncertainty as to what court or officer of court entitled to be obeyed, and in consequence of such conflicting claims set up by the officers thereof, the said railway is permitted to go to destruction, and the engines and cars and company's property from negligence in some, mismanagement and want of funds in others, the said railway, from carefully-ascertained information, is being damaged to the amount of one thousand dollars per day; the windows, doors, and furniture has been moved or stolen from the depots and offices along the railway-track; machinery has been moved or stolen from the shops, engines, cars; and the rolling-stock, thrown off the track along the line, are permitted to remain where thrown off, and no effort made by the persons in charge to repair and put in order
25 the same; the employees and laborers are unpaid, and in lieu of payment move off, use, or sell every movable thing of value found on or near the railway-depots, offices, or shops of said company.

And your complainants say that the damage and injury already done to said railway, its equipment and property, by said mismanagement, exceeds in amount the sum of one million five hundred thousand dollars, as represented to them by the sworn inspection of a great number of persons familiar with the operations of railways and having knowledge of the value of such property.

And your complainants further state that by taking charge of said railway and its property through a receiver or otherwise this honorable

court can reconcile all conflicting interests; can remove the cloud now, by reason of such illegal and unwarrantable acts, resting upon the title of your complainants as such trustees; can preserve, protect, improve, and administer the property and affairs of said corporation so as to secure, ultimately, to the holders of the bonds represented by
26 *by* your complainants the payment in full of their bonds and interest, as same is justly due, in gold, and secure the payment in whole or in part of the other claims against said company.

And your complainants say that the said action on the part of the said Hon. R. B. Lindsay, as governor of Alabama; the action of the said John H. Gindrat, so by said governor appointed receiver; the proceedings in said bankruptcy court, which your complainants charge were not in proper form and were unwarranted by the act of Congress known as the bankruptcy act of 1867, and the action thereunder had, have constituted a cloud upon the title of your complainants and the other holders and owners of said first-mortgage bonds.

That several actions have been brought and are pending in the courts of the State of Alabama against said railway company, but by whom brought and prosecuted, the number of said actions, or amount therein claimed, are unknown to your complainants; that by reason of
27 this multiplicity of suits the property and assets of said company will be greatly deteriorated and wasted, and a constantly-recurring interference caused with the property and the active operation of the railway of the said company, which will be destructive to the rights and interests of the complainants and the bondholders represented by them.

And your complainants further say that, as hereinbefore alleged, the said bonds so represented by your complainants were made payable in gold coin, but that on presentation of the same, on the first days of January and July in the year 1871, and on the first day of January, 1872, for payment, the same were paid in currency of the United States, and not in gold coin, as has been agreed. That the several bondholders so presenting their coupons, attached to said first-mortgage bonds, for payment, or some of them, were compelled to receive payment of same in currency, but so accepted currency instead of gold under formal written protests, which protests have been surrendered to your complainants and are in their possession, and upon which the said
28 bondholders have requested your complainants, and demanded of them, that they, as such trustees, proceed at once to foreclose said first mortgage and trust-deed for the difference between said interest on said bonds in currency and said interest in gold.

That your complainants are not informed as to what amount of interest has been paid on said bonds in currency, or as to the numbers of the bonds which have been presented for payment, but are informed that about fifty-three of said mortgage-bonds, in number ranging from 158 to 4,700, have not been paid, and some, or a portion, were presented for payment on the said first days of January and July in the year 1871, and the first day of January, 1872, but payment, either in currency or gold, was refused, for the reason that the holders of the same could not, or would not, furnish proof that they had become bona-fide purchasers of the bonds by them held prior to said 1st day of January, 1871.

That, as your complainants are informed and *and* believe, said
29 bonds so presented and held, and upon which payment was refused for said alleged reason, were, in fact, so held by persons who had purchased them for value, in good faith, prior to said 1st January, 1871.

And your complainants further state that such discrimination by said company or by said State of Alabama between the bonds so issued by said company under said first mortgage was unwarranted and illegal, and the interest on said bonds, on which payment is refused, is justly and fairly due to the holders thereof.

And complainants are informed and believe that said bonds, so issued under said first mortgage, were, or the greater portion, at least, of said bonds were purchased for a valuable consideration by the present holders thereof, in open market, and upon the belief that the interest on the same would be paid by said company, or by the State of Alabama, in event of default by said company, in gold coin, for so it was denominated and agreed in the said bond; and that by reason of said non-
30 payment in gold the said holders have incurred great damage.

That your complainants are unable to state the exact amount of difference between the sums paid by way of interest on said bonds, or which may hereafter be tendered in payment, and the amount of same if paid in gold, but such difference your complainants offer to establish on the trial of this action; and for the amount thus proved your complainants will ask the decree of the court, compelling said company to pay to your complainants for the benefit of the holders of the first-mortgage bonds.

And your complainants further say that the interest thus paid in currency on the said first-mortgage bonds were paid on some bonds numbered from one to forty-eight hundred, inclusive; and that certain other bonds secured to be paid by said first mortgage, and numbered from four thousand eight hundred and one to fifty-three hundred, both inclusive, were also issued by said company and delivered for value to various parties, who now demand of your complainants that said
31 mortgage be foreclosed to secure to them payment of interest on the same; that said last-mentioned bonds were also duly indorsed by the governor of the State of Alabama for and on behalf of said State, under and in compliance with the provisions of the said several acts of the legislature of the State of Alabama hereinbefore referred to, and are in law and in fact valid and existing claims against said company, secured to be paid by said first mortgage, under which your complainants are trustees.

That no part of interest on said bonds last mentioned has been paid, either in currency or gold, on the alleged ground that the issue of the same or the endorsement of the same by the State of Alabama is not warranted by said acts of the legislature, which ground is, as your petitioners are informed and believe, wholly untenable and contrary to law and equity; and therefore your complainants ask the aid of this honorable court to determine as to the validity of said bonds, to the end that your complainants may be instructed as to their duty in the prem-
32 ises, and to enable them to fairly and equitably execute the trust in them reposed as to all parties interested.

Your petitioners further state that they have no knowledge of the names and residence of the many and various parties having or claiming to have an interest in or lien on the railway equipments and property of the said Alabama and Chattanooga Railroad Company; but complainants pray that, when discovered, such several parties may be added as defendants herein, with leave to complainants, by proper and necessary averments, to charge them as such defendants.

And therefore your petitioners pray that this honorable court will take under its control and management the affairs and property of every kind of the said the Alabama and Chattanooga Railroad Company, and

protect the same from any and every person or persons interfering in any wise therewith, and appoint a receiver or receivers, with full power to borrow money and to render effectual the orders and directions of this court in respect of said corporation, its business, property, and
33 assets, with such other powers as are or may become necessary or proper to cause the property and effects of said corporation to be properly taken into possession by such receiver, protected, improved, and administered until the further order of this court, and in the mean time to put into such condition, as to title and possession, as well as in every other respect, that the said railway and the property incident thereto may not be sacrificed by any person or persons in any manner whatsoever or by any means, and that if sold under the decree of this court it may not be sold at an inadequate price in consequence of any fear of those who may wish to become purchasers thereof that they will not get good title and quiet enjoyment of the same.

Your complainants also pray that an account may be taken herein as to the amount of principal and interest due, by reason of the premises, to the holders of the said first-mortgage bonds; and the amounts due them for such difference between the payment in currency and the amount which should have been paid in gold or its equivalent in
34 currency; and also to settle and ascertain the existence, extent, and priority of any and every lien asserted against the property and effects of said corporation or against any part thereof, and the amount of unsecured liabilities existing against said corporation, the nature of the same, and the owners thereof.

And your complainants further pray that this court will determine and settle any questions as to the validity of the said bonds so as aforesaid numbered from four thousand eight hundred and one to fifty-three hundred, both inclusive, either as against said company or as against the State of Alabama, by reason of the indorsement of the same by said State, the amount due on the same, and to grow due thereon; and that necessary and proper authority may be given your complainants as such trustees to enforce herein the payment of said bonds and the interest thereon, or such decree as will relieve your complainants from responsibility under their trust in not enforcing the same.

Your complainants pray that the said Alabama and Chatta-
35 nooga Railway Company; Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, as trustees for the second-mortgage bonds of the Alabama and Chattanooga Railway Company; Charles Walsh, as receiver, appointed under the courts of Alabama and Mississippi; the Mobile and Ohio Railroad Company, claiming possession and in actual possession of that part of the said Alabama and Chattanooga Railroad from Meridian, in the State of Mississippi, to Birmingham, in the State of Alabama, under a renting or authority from the said Walsh as receiver aforesaid; W. T. Wofford, as receiver, appointed by the chancery court of Dade County, in the State of Georgia, and now as such receiver in possession *in possession* of that part of said Alabama and Chattanooga Railroad, from the Tennessee line running through Dade County, in the State of Georgia, to Birmingham, in the State of Alabama; John F. Bailey, John H. Gindrat, and Samuel B. Jones, as assignees of the bankrupt court for the middle district of Alabama, claiming and exercising possession and the right of possession of the Alabama and Chattanooga Railroad
36 from Chattanooga, in the State of Tennessee, through the States of Georgia, Alabama, and Mississippi, to Meridian, in the State of Mississippi; Robert B. Lindsay, who claims to be purchaser at said bankrupt sale; John H. Gindrat, as receiver, under the said chancery proceeding

instituted at Chattanooga, in the State of Tennessee, and who, as such receiver, received possession of the shops, depots, warehouses, wood, iron, stores, and other property of the said the Alabama and Chattanooga Railroad Company at Chattanooga, and who has prayed for and obtained an order for the sale of a large portion of the company's property at Chattanooga; J. A. Caldwell, clerk and master of the said chancery court at Chattanooga, and as such clerk and master has advertised to sell large quantities of the said Alabama and Chattanooga Railroad property at Chattanooga, under an order of said court, at public auction, on the 10th day of June, 1872, be made parties defendant to this bill of complaint, and be required to account to your com-
37 plainants for the tolls, income, and use and occupation of the mortgaged premises, and on being found indebted for said receipts, tolls, and income they may be jointly and severally ordered to pay over the same to your complainants, by them to be applied in reduction of the said claims of the holders of the bonds represented by your complainants; and that until the final hearing of this cause may be had, and the said property, rights, credits, franchises, and effects so conveyed as aforesaid to your complainants, as such trustees under said mortgage or trust-deed, may be sold and disposed of, and the equity of redemption under said mortgage be declared foreclosed. And to the end that the same may in the mean time be preserved and taken care of, and the railroad of said company operated, and the business of the said company prosecuted to the greatest advantage for the benefit of all parties interested therein, your complainants pray, as well as their former prayer, that a receiver or receivers be appointed with necessary and proper powers as shall be adequate for the purposes, as also that such interlocutory and final
38 orders and decrees may be made, as may be necessary to keep and maintain said railroad and its appurtenances in proper repair, order, and condition for use, and have the same used, operated, and carried on until it can be sold and disposed of, and to this end that this honorable court may order, adjudge, and decree, that the said railroad and its appurtenances, rolling-stock, and property of every description, whether at date of execution of said mortgage by said company owned and possessed, or thereafter acquired, necessary to operate and for the usual and proper use of said railroad, with the franchises of said company, their rights, credits, and effects, and all and whatsoever was or is by said mortgage or deed of trust conveyed to or vested in your complainants as such trustees, or which properly belongs to them as such for the security of the bonds and the coupons or interest-warrants thereon, to be sold and converted into money, and the same be distributed among the holders of the said first-mortgage bonds issued
39 under said mortgage; or, in the event that said proceeds of such sale shall not be sufficient to pay such bonds in full, both principal and interest, then to be distributed under the direction of this court among said bondholders pro rata or in equitable proportion as shall be found to be proper in a due and faithful execution of the trust reposed in complainants in said mortgage and trust deed, and for this purpose to cause to be taken and stated all necessary accounts. And your complainants pray that this honorable court may grant writs of injunction issuing out of and under the seal of this honorable court, according to the statute and the practice of said court, directed to the defendants named herein, and such other persons or corporations as may be made parties defendant herein, and specially to the said Charles Walsh, as receiver aforesaid; the said Mobile and Ohio Railroad Com-

pany, using and occupying the said road under the said Walsh as receiver; the said Robert B. Lindsay and the said John H. Gindrat, claiming to act for the State of Alabama in the control of said
40 road; the said John H. Gindrat, as receiver of the chancery court at Chattanooga, in the State of Tennessee; John H. Gindrat, John F. Bailey, and Samuel B. Jones, as assignees of the bankrupt court, in the middle district of Alabama; W. T. Wofford, as receiver, appointed by the chancery court of Dade County, in the State of Georgia, and J. A. Caldwell, clerk and master, appointed by the chancellor at Chattanooga, in the State of Tennessee, commanding, enjoining, and restraining them and each of them, their attorneys, agents, servants, and employees, not to interfere in any manner whatever with the receiver or receivers appointed by this court herein in the control, possession, or management of any of the property or effects of the said The Alabama and Chattanooga Railroad Company, not to withhold from such receiver or receivers any property or effects of said corporation, and to refrain from bargaining or selling, or any attempts to bargain or sell, on any pretence whatever, and to any person or corporation whatsoever, the said railway or any property now or at any time
41 the property of said company, under whatever title or claim the same may be pretended to be held, until the further order of this court.

Your petitioners also pray that a writ of subpœna may issue out of and under the seal of this honorable court directed to the several defendants now herein named and such others as may from time to time be added as defendants, commanding them and each of them on a day certain, therein to be named, and under a certain penalty, to be and appear in this honorable court, then and there to answer all and singular the premises, and to stand to, perform, and abide such further order, direction, and decree as may be made against them; and for such further or other relief as may be agreeable to equity.

And your complainants will ever pray, &c.

(S'gn'd) JAMES Q. SMITH,
Solicitor for Complainants.

STATE OF TEXAS,
City and County of Galveston, ss:

I, R. D. Johnson, a commissioner of the United States, hereby certify that before me personally came John C. Stanton, one of the
42 complainants named in the foregoing bill, well known to me, who being by me first duly sworn, did, for himself, depose and say that he is one of the complainants in the above-entitled action; that he has read the foregoing complaint and knows the contents thereof, and that the matters therein alleged are true of his own knowledge, except such as are charged on information and belief, and as to such allegations he believes them to be true.

(S'gn'd) JOHN C. STANTON,
Trustee.

In witness whereof I have hereunto set my hand and affixed my official seal, on this the 25th day of May, 1872.

[SEAL.] (S'gn'd) R. D. JOHNSON,
U. S. Commissioner for Eastern District of Texas.

EXHIBIT A.

First mortgage and trust-deed of the Alabama and Chattanooga Railroad Company.

This indenture of mortgage, made this nineteenth day of De-
43 cember, in the year eighteen hundred and sixty-eight, by and between the Alabama and Chattanooga Railroad Company, a corporation of the States of Alabama, Georgia, Mississippi, and Tennessee, the party of the first part, and Seth Adams, Francis Dane, and John Demeritt, trustees upon certain trusts hereinafter specified and provided, the party of the second part.

Whereas by virtue and in pursuance of an act of the general assembly of the State of Alabama, approved November 17th, 1868, and entitled "An act relating to the Wills Valley Railroad Company and the Northeast and Southwest Alabama Railroad Company," said Wills Valley Railroad Company has changed its name to the Alabama and Chattanooga Railroad Company; and

Whereas the State of Alabama, by force of the act aforesaid, and of certain other acts of said general assembly, namely, an act approved February 19th, 1867, entitled "An act to establish a system of in-
44 ternal improvements in the State of Alabama," and an act approved September 22nd, 1868, entitled "An act to amend the law to establish a system of internal improvements in the State of Alabama," has become and is bound to indorse the first-mortgage bonds of the Alabama and Chattanooga Railroad Company, upon the terms contained in the aforesaid acts; and

Whereas the directors of the said railroad company, at a meeting duly held in the city of Boston, on the 2nd day of December, 1868, voted:

First. That the company will construct their railroad with a view to the obtainment of the aforesaid indorsement of their first-mortgage bonds.

Second. That the company will create, issue, and dispose of for not less than ninety cents on the dollar these bonds, payable at the National Security Bank of Boston, in the commonwealth of Massachusetts, on the first day of January, A. D. 1869, with interest at the rate of eight per cent. per annum, payable semi-annually on the first days of January and July in each year, for one thousand dollars each, and not
45 to exceed at the rate of sixteen thousand dollars per mile of said railroad, and to be dated as made on the first day of January, A. D. 1869. That a warrant for each semi-annual payment shall be made and annexed to each bond. That said bonds shall be prepared by the treasurer of the company, and signed by him and the president for and on behalf of this company, and shall have annexed to them a certificate of authentication by two, at least, of the trustees under the mortgage made to secure them, and shall not be issued or obligatory without such certificate.

Third. That the said bonds shall be, and shall recite the fact that they are, first-mortgage bonds, issued in accordance with and upon the conditions of the act of the general assembly of Alabama, entitled "An act to establish a system of internal improvements in the State of Alabama," and approved February 19th, 1867, and the amendments to said act, approved September 22nd, 1868, and of the act first above mentioned, approved November 17th, 1868, and that they shall have priority in

favor of the State of Alabama over and above any and all liens whatever.

Fourth. That the company hereby grants, ratifies, and confirms unto the State of Alabama all the liens, rights, powers, priorities, and privileges which the aforesaid acts provide that the State of Alabama shall have and enjoy in reference to the said bonds.

Fifth. That for the purpose of securing the payment of the principal and interest of the said bonds, the company make and deliver a mortgage and deed of trust conveying to Seth Adams, Francis Dane, and John Demeritt, as trustees, all the railroad, franchises, rights, and property hereinafter mentioned, for the security, protection, and benefit of the State of Alabama, in the manner provided by the several acts aforementioned, and subject thereto, of the holders of the said bonds. That said mortgage-deed shall be signed by the president and treasurer for and on behalf of this company, and bear date as made on the 19th day of December, A. D. 1868.

And whereas the said company, for the purpose of raising funds for the completion of the construction and equipment of their said railroad, proposes to issue its said first-mortgage bonds, as above described, to an amount not exceeding at the rate of sixteen thousand dollars per mile of railroad, and to obtain the indorsement of them by the State of Alabama, in the manner provided in the above-mentioned acts:

Now, therefore, this indenture witnesseth, that the said Alabama and Chattanooga Railroad Company, party of the first part, in consideration of all and singular the premises, and for the further consideration of one dollar to it in hand paid by the party of the second part, trustees, as aforesaid, at and before the ensealing hereof, the payment of which is hereby acknowledged, doth hereby grant, bargain, sell, enfeoff, release, assign, and convey unto the said Seth Adams, Francis Dane, and John Demeritt, trustees as aforesaid, party of the second part, and to their successors and assigns, all and singular the entire railroad of the party of the first part, lying, being, and extending from its terminus at Chattanooga, in the State of Tennessee, to and through Dade County, in the State of Georgia, to the State of Alabama, and through the State of Alabama in a general southwesterly direction, passing through the town of York, in said State, to the State line of the State of Mississippi, and thence to its terminus at Meridian, in said Mississippi, with all its franchises, equipments, property, tolls, issues, and profits, and all its lands, tenements, buildings, fixtures, machinery, goods, and chattels connected with or used in the using and operating of said railway, or appurtenant thereto, and all its rails, ties, fuel, fencing, and erections, and all its rights of way and easements, and all cars, engines, and tools, and all rents, reservations, and reversions of every nature and kind whatever, including all the property between said terminal points, which said party of the first part now has or owns and possesses, or may hereafter acquire, either in law or equity, of every kind whatever, pertinent thereto; also all other like estate, structures, superstructures and equipments, and matters and things pertaining or belonging to all or any of the same, that may be hereafter acquired, constructed, or controlled by or belonging to the party of the first part; and also all other estate, real, personal, or mixed, of any of the foregoing descriptions or of any other kind, which may be hereafter acquired by the party of the first part, and used or intended to be used in the construction and operation of the said railroad: Provided, however, that this grant and conveyance aforesaid shall not include nor operate to trans-

fer any railroad lying outside of the aforesaid line of railroad and termini, and which the party of the first part may at any time hereafter acquire, or any property purchased with or exclusively used in connection with the same, or the tolls and profits derived therefrom, or any land which said company now owns, or may hereafter acquire, and which are not necessary for the management or operation of said railway, or the repair thereof, or for the business of said railroad company; nor shall these presents in any way prohibit the party of the first part from receiving, using, and applying any money or personal property of said company to the repairs of said road or its appurtenances, or to its current expenses, or to the purchase of necessary machinery or the renewal thereof; and the board of directors of said company may likewise distribute and pay any net annual income and profits to stockholders, after paying the interest on any and all bonds which said company may owe, and providing for any sinking-funds required to be created and kept:

To have and to hold the said railway property, premises, interests, rights, and appurtenances, mentioned as aforesaid, and hereby conveyed, or intended so to be, by this conveyance, unto the said party of the second part, as such trustees as aforesaid, and to their successors in said trust, or assigns, to and for the only use, benefit, and behoof of the said trustees and their cestui que trusts, their successors and assigns, forever; but in special trust and confidence, and upon the conditions following, that is to say:

1st. That this conveyance is for, and shall be by the said party of the second part, their successors and assigns, held, used, and owned solely for, the benefit and protection and security of the persons and corporations who shall hold and own the bonds about to be issued as aforesaid by the party of the first part, and for enforcing the stipulations of said company as to said issue of bonds and the disposal thereof, and securing the same, and the final payment thereof, in their true intent and meaning, whether contained in said bonds or the interest-warrants attached to them, or in this deed.

2nd. That for the better assuring and confirming the title and powers of the said party of the second part, their successors and assigns, in the said premises and property hereby conveyed, and in and to any premises and property or rights hereafter accruing, or to be acquired by said party of the first part, appurtenant to said railroad, which is intended to pass or be passed by this conveyance, the said party of the first part, its successors and assigns, will and shall, as often as may be lawfully required by the party of the second part, or their successors or assigns, holding the above-granted trust, do such acts and make such other and further conveyances and assurances in law as such party of the second part shall, by counsel learned in the law, be advised are necessary for the better carrying out of the object of the parties to this mortgage or deed of trust.

3rd. That if the said party of the first part, its successors or assigns, shall well and truly pay to the holders of said bonds, so to be issued and hereby secured, the respective sums of money and interest due and accruing on said bonds, on the days and times therein mentioned, and according to the tenor and effect of said bonds, then and thenceforth this indenture, and all the estate hereby granted, shall become and be utterly void, and of no further effect; and the same shall be, by such payment, wholly annulled and satisfied, without any further receipt or entry of satisfaction of record whatever, but shall be, if required,

entered and certified on any record of the same as so satisfied, by the party of the second part, or their successors.

4th. That until default shall have been made by the party of the first part in the payment of principal or interest of the said bonds, or some of them, or until default shall have been made in respect to something herein required to be done by the said party of the first part, the said party of the first part shall be suffered and permitted to possess, use, occupy, manage, and operate the said railroad property, franchises, and appurtenances, and to renew, replace, and repair the same, and every part thereof, and to take and receive and use the tolls, rents, issues, incomes, and profits thereof, and dispose of the same in any manner not inconsistent with this instrument.

5th. In case default shall be made in the payment of any interest on any of the aforesaid bonds issued or to be issued according to the tenor of the coupons thereto annexed, or of the provisions hereof; or in case default shall be made in the payment of the principal of said bonds, or any of them, when the same shall become due, without the consent of the holder of such bond on which such default shall occur; or in case of any default in the payment of any of the sums of money hereinafter provided for the sinking-fund, the said party of the first part hereby covenants and agrees to and with the party of the second part, and their successors and assigns, that within three months after such default shall have occurred, the same default still continuing, the said party of the first part, on demand of the said trustee or trustees for the time being, shall and will surrender to him or them, or to their agent, the actual possession of the herein granted and demised railway and premises, together with all the books, records, papers, accounts, and money of said company, and all management and control thereof; and that all the expenses of taking, holding, managing, and operating said property, if possession be so taken, shall be paid from the incomes and profits thereof; and if said property shall, after taking such possession thereof, be sold, then from the sale thereof; or such expenses may be paid from the sale of any personal property as the said trustees may deem proper; and that said party of the second part, and their successors, having taken such possession, may manage, operate, and control said road and property and all of its affairs, and appoint all needful agents and employees for that purpose, and pay the same, and receive all the incomes, issues, and profits will satisfy the same—first paying all expenses of such possession and management, and all taxes, assessments, charges, and prior liens on said property, and a just compensation for their own services as such trustees. But in any and in all cases of such taking of possession by said party of the second part, and paying up any such default and the expenses aforesaid, the said party of the second part shall immediately thereafter redeliver the said railway and premises, books, records, and money and accounts into the possession of the party of the first part: Provided, that no such demand for such possession shall be made by said trustee or trustees until they shall have been required by the holders of at least of one-half of all of the said issue of said bonds which shall then be unpaid and outstanding, to make such demand and to take such possession of said road and property.

6th. That in case default shall be made as aforesaid, and shall continue as aforesaid, it shall be lawful for the party of the second part, or their successor in said trust, after entry as aforesaid, or other entry, or without entry, personally, or by agent or attorney, to sell and dispose of to the highest bidder all and singular the premises hereby conveyed, or

intended so to be, as an entirety, at public auction, at such time as said party of the second part may appoint, first having demanded of the party of the first part full payment of all money then in default, and also first having given sixty days' notice of such time and place of sale, and a full description of the property so to be sold, by advertisements thereof in four newspapers published, one in Montgomery, in the State of Alabama, one in Chattanooga, in the State of Tennessee, one in the city of Boston aforesaid, and one in the city and State of New York, and to adjourn said sale from time to time, in their discretion, and if adjourned, to make such sale in manner aforesaid, without further
57 notice, at the time and place to which it may be so adjourned; and upon such sale, and receiving the purchase-money therefor, to convey the same by good and sufficient conveyances to the purchaser or purchasers. And such sale and conveyances so made shall convey all the right, title, estate, interest, and property of the said party of the first part of, in, and to the said road, premises, franchises, and property to the said purchaser in fee-simple forever, and shall be a perpetual bar, both in law and equity, against the said party of the first part and its successors and assigns, and against all and every person claiming, or to claim, the said premises, or any part thereof, under them, forever. After deducting from the proceeds of such sale the expenses of the sale and conveyance, and all advances or liabilities which may have been made or incurred by the party of the second part in operating and controlling and maintaining the said railroad and property, and in managing its business and affairs while in possession, and all payments for taxes, charges, assessments, and liens prior to the lien of these presents on said premises, or any part thereof, as well as rea-
58 sonable compensation for their own services, to apply the proceeds of such sale to the payment of the interest of said bonds, secured by this mortgage, or so many of them as shall have been issued by said party of the first part, and be then outstanding, pro rata, until all of such interest shall be paid, and afterwards to apply the remainder to the payment of the principal of said bonds, pro rata, until such principal shall be paid; and if any surplus remain after paying all of said matters, to pay such surplus to the party of the first part, or its assigns, and such payment shall be made on said bonds whether the same shall have become due or not at the time of such sale: Provided, that said trustee or trustees may, in their discretion, sell the said premises as an entirety, subject to any lien on the same, or any part thereof, which may, at the time, have priority over the lien of these presents, and on doing so, shall make legal distribution of the proceeds of such sale accordingly.

It is hereby declared that the receipt of said trustee or trustees making any such sale to the purchaser of the premises for the purchase-
59 money shall be a full and sufficient discharge of said purchaser therefor, and that said purchaser shall not, after payment of said purchase-money and obtaining such receipt therefor, be liable, or in any way bound, to see said purchase-money applied to this trust, or otherwise, or in any manner answerable for its loss or misapplication, or obliged to inquire into the authority for making such sale.

7th. At any sale of the property aforesaid, or any part thereof, made by virtue of these presents, or by judicial authority, the said trustee or trustees may bid for and purchase, or cause to be purchased, the property so sold, or any part of it, in behalf of the holders of the said bonds secured by this deed then outstanding, at a reasonable price, if only a

part be sold, but if the whole property be sold, at a price not exceeding the whole amount of said bonds and interest then outstanding.

8th. If default be made by the party of the first part in the payment of any half year's interest on any of said bonds, and the warrant or coupon for such interest shall have been presented and its payment demanded, and such default shall have continued for three
60 months after such demand, without the consent of the holder of such coupon or bonds, then and thereupon the principal of all of the said bonds hereby secured shall be and become immediately due and payable, anything in such bonds to the contrary notwithstanding; and the said party of the second part may so declare the same, and notify the party of the first part thereof, and upon the written request of the holders of a majority of the said bonds then outstanding, shall proceed to collect both principal and interest of all such bonds outstanding by foreclosure and sale of said property, or otherwise as herein provided.

9th. It is hereby mutually agreed by the parties hereto that the trustees shall only be responsible, each for his own gross negligence and willfull default, and that they shall not be bound to do any act touching the execution of the trust, except at their own option, which may involve them in personal expense or liability, unless first duly and satisfactorily indemnified against the same by one or more of said bondholders. In case of the death, resignation, or inability to act of
61 any trustee, the board of directors may appoint a successor, and failing so to appoint, any court of competent jurisdiction in either of said States in which said road exists may appoint a trustee to fill such vacancy, on the application of the holders of one-sixth part of the bonds hereby intended to be secured then outstanding; and such appointment by the board or by such court shall invest the trustee so appointed with all the interest, estate, power, and authority in the premises, and subject him or them to the same obligations, hereby given and granted to the party of the second part herein.

And the said party of the first part hereby further covenants and agrees with the party of the second part and their successors, and with the holders of *of* each and all of said bonds which may be issued, and hereby secured, that the said party of the first part will, at the end of five years after the indorsement of the bonds for the first section of said road, as provided for in the said act approved February 19th, 1867, and in the other acts above mentioned, set apart two per centum per annum upon the amount of the bonds of the company endorsed by
62 the State of Alabama as aforesaid, and will use the same in the purchase of the bonds of the State of Alabama, or the railroad bonds indorsed by the governor of said State as aforesaid, which bonds the company shall pay into the treasury of said State, after assigning them to the governor thereof, pursuant to the provisions of said act, approved February 19th, 1867; and that said party of the first part will create and make a further sinking-fund for the redemption of such bonds, and each of them, by setting aside and depositing with the sinking-fund commissioner to be appointed by the party of the first part for that purpose, from and after the first day of January, A. D. 1877, and annually thereafter until the maturity of said bonds, from the net earnings on the said road and property, after the payment of all the interest on said bonds, an amount of money equal to three per cent. of all such bonds hereby secured, which shall then be outstanding.

Such sinking-fund moneys shall be invested annually by said sinking-fund commissioner in the bonds hereby secured, on the best terms
63 which may be offered in proposals to be called for by him, by giv-

ing sixty days' notice by publication in two newspapers published, one in New York and one in Boston, provided that such bonds can be bought at not over ten per cent. premium; and whenever said bonds cannot be bought for said price, such sinking-fund moneys shall be invested in such other manner as both parties hereto may from time to time agree upon, they having full power at any time to change any such other investment; and the money accruing on any and all of such investments for interests, as fast as the same shall be received, shall be added and paid into said sinking-fund, and compounded therein continually, and re-invested in like manner with the other money of said fund.

That the board of directors of said railroad company, party of the first part, shall have, in all other respects, entire control over the management of said sinking-fund, and every person in charge of or connected with the same, and shall, from time to time, direct how it shall be kept and the manner of keeping the accounts thereof; and
64 may require ample security to be given to them by any person in charge of its moneys, or its securities or bonds, for its safe-keeping. Every bond hereby secured, which may be purchased and held by said sinking-fund, shall remain in full force until the whole of such issue shall have been so absorbed, or otherwise redeemed by said party of the first part; and the interest on such bonds, paid by said sinking-fund, shall be held by said railroad company regularly, as the interest on its other similar bonds is paid; and such bonds, so in the sinking-fund, shall, as to the annual amount of money to be paid from net earnings into said fund, be regarded as outstanding: Provided, however, and it is expressly agreed, that this indenture and all the provisions herein contained, and the titles hereby conveyed, are subject to this limitation and provision, that the liens, rights, privileges, priorities, and powers to which the State of Alabama may now be or hereafter become entitled, by reason of the indorsement by said State of
65 the bonds to be issued under and secured by this mortgage, by virtue of any and all acts of the general assembly of said State authorizing said indorsement, and providing for such liens, rights, privileges, priorities, and powers, shall in no wise be impaired or affected by this indenture or any of its provisions, or the conveyance in trust and mortgage of the said railroad and other property, but shall be paramount thereto in all respects, as by any and all of said acts is provided.

And it is hereby made the paramount duty and trust of the party of the second part, their successors and assigns, to secure, confirm, and convey unto the State of Alabama, or to such officers thereof or other persons as pursuant to the laws of said State may be lawfully entitled, such right, title, interest, or estate as the State of Alabama, or any person or persons claiming under said State, may be vested with or entitled to by virtue of any act of the general assembly of Alabama authorizing the said indorsement, or providing for said liens, rights, privileges, priorities, and powers, for the benefit of said State.

In witness whereof the said Alabama and Chattanooga Rail-
66 road Company, the party of the first part, has caused these presents to be signed, executed, acknowledged, and delivered in its name and behalf by its president and treasurer, and has caused its corporate seal to be hereto affixed the day and year first above written.

And the parties of the second part have hereunto set their hands and affixed their seals the same day and year aforesaid.

EXHIBIT B.

[Form of bond.]

$1,000.] *Eight per cent. first-mortgage bond.* [$1,000

No. .] UNITED STATES OF AMERICA. [No.

Alabama and Chattanooga Railroad Company.

Know all men by these presents: That the Alabama and Chattanooga Railroad Company, a corporation existing under the laws of Alabama, Georgia, Mississippi, and Tennessee, acknowledges itself indebted to the State of Alabama, or bearer, in the sum of one thousand dol-
67 lars, which sum it promises to pay to said State of Alabama, or bearer, in lawful money of the United States, at the National Security Bank, at Boston, in the commonwealth of Massachusetts, on the first day of January, A. D. 1889, with interest at the rate of eight per cent. per annum, payable semi-annually on the first days of January and July in each year, on the presentation and delivery of the proper annexed interest-warrants. This is one of a series of numbered bonds issued in accordance with and upon the conditions of an act of the general assembly of Alabama, approved February 19th, A. D. 1867, and amended September 22nd, A. D. 1868, entitled "An act to establish a system of internal improvements in the State of Alabama," and which in pursuance of said act are secured by an indorsement of the State of Alabama with power of sale, and by a first lien upon the entire road, including the stock, road-bed, rights of way, grading, bridges, masonry, iron rails, spikes, chairs, and the whole superstructure and equipments, and all the property owned by the company as incident to or necessary for its business, and depot and depot stations; and said
68 series may be issued to an amount not exceeding at the rate of sixteen thousand dollars per mile of said road.

In witness whereof this company has caused its corporate seal to be hereto affixed, and this bond to be signed by its president and treasurer, this first day of January, A. D. 1869.

[L. S.] (S'gn'd) D. N. STANTON,
President.

(S'gn'd) SAM. WHEELER,
Treasurer.

[$1.00 int.-rev. stamp, cancelled.]

STATE OF ALABAMA.

[Form of coupon.]

The Alabama and Chattanooga Railroad Company will pay forty dollars to bearer, at the National Security Bank of Boston, Mass., on the first day of , being six months' interest on bond No. , for $1,000.

$40. (S'gn'd) J. F. BURR,
Treasurer.

Trustees' certificate.

We certify that this bond is one of the series of first-mortgage bonds described in and secured by a first-mortgage deed upon the within-
69 mentioned railroad, bearing date December 19th, 1868.

(S'gn'd) JOHN DEMERITT,
" F. B. LOOMIS,
Trustees.

State indorsement.

In pursuance of certain acts of the general assembly of the State of Alabama, namely, an act approved February 19th, 1867, entitled "An act to establish a system of internal improvements in the State of Alabama," and an act approved September 22nd, 1868, entitled "An act to amend the law to establish a system of internal improvements in the State of Alabama," and an act approved November 17th, 1868, entitled "An act relating to the Wills Valley Railroad Company and the Northeast and Southwest Alabama Railroad Company," the State of Alabama hereby indorses this bond and becomes liable for the payment of the principal and interest thereof, the Alabama and Chattanooga Railroad Company having complied with the conditions upon which the undersigned, governor of the State of Alabama, is required on the part of the State to give such indorsement.

70 In witness whereof the undersigned, governor of the State of Alabama, has hereto set his hand and caused to be affixed hereto the seal of the State of Alabama, this first day of January, A. D. 1869.

[L. S.] (S'gn'd) W. H. SMITH.

"The Alabama and Chattanooga Railroad Company" hereby further agrees to pay the principal and interest of the within bond in coined money of the United States.

In witness whereof the said corporation has caused its corporate seal to be hereto affixed, and these presents to be subscribed by Daniel N. Stanton, its president, duly authorized, on this day of January, A. D. 1869.

[L. S.] (S'gn'd) D. N. STANTON,
President.

71 EXHIBIT ONE.

In chancery.

THE STATE OF ALABAMA,
County of Sumpter:

To the Hon. A. W. Dillard, chancellor of the western chancery division of said State.

Complaining, shows unto your honor your orator, the State of Alabama, in whose name this bill of complaint is filed, by the direction in writing of the governor of said State—

First. That the general assembly of the said State of Alabama enacted an act entitled "An act to establish a system of internal improvements in the State of Alabama," approved Feb'y 19th, 1867, by which act it was with other provisions and things enacted and provided that whenever any railroad company then incorporated or that may thereafter be incorporated by the general assembly of the said State of Alabama, shall have finished, completed, and equipped twenty continuous miles of road, at either or both ends of such road, it shall be the duty of the governor of said State, and he was thereby required, to endorse on the part of said State the first-mortgage bonds of such railroad company to the extent of twelve thousand dollars per mile for such portion

72 thus finished, completed, and equipped; and when a second section of twenty miles is finished, completed, and equipped, it shall be the duty of the said governor, and he was thereby required, to endorse the first-mortgage bonds of such railroad company, upon the presenta-

tion of said bonds by said company, to the extent of twelve thousand dollars per mile for the second section of twenty miles, and this rate and extent of endorsement shall be continued upon the same condition for each subsequent section of twenty miles until such road was completed, it being the true intent and meaning of said act that said State should endorse the first-mortgage bonds of such railroad company to the extent of twelve thousand dollars per mile, for each mile thereafter constructed within the limits of said State, whenever such company should prepare and execute said first-mortgage bonds; and if the last section of said road should be less than twenty miles, said endorsement should be at the rate of twelve thousand dollars per mile, provided that if any railroad under the management of and belonging to a company incorporated by the general assembly of said State had one or both of its termini in an adjoining State, and twenty continuous miles of said
73 road were finished, completed, and equipped, and extending to or within the limits of said State, then such company, to the extent of twenty miles, should be entitled to a like endorsement of first-mortgage bonds of twelve thousand dollars per mile, the proceeds of which bonds should be applied exclusively to the construction and equipment of the road in said State, which bonds should constitute a lien on the whole road, whether lying in or out of said State; and that the president and a majority of the directors of any railroad company availing themselves of the benefits of said act shall be citizens of said State, and have the place of business of the same within the limits of said State, except the Southwestern Railroad Company of Georgia and the Nashville and Decatur Railroad Company. Such railroad company was authorized by said act to issue the bonds of the company for such amount as the company should determine, bearing interest at a rate not exceeding eight per centum per annum; the interest to be paid semi-annually, at such place as the company should determine, with coupons attached, and payable at the expiration of not less than fifteen nor more than thirty years; to be issued in such sums (not less than one
74 hundred dollars) as the company should determine. Such bonds, when endorsed by the governor on the part of the State, to recite the fact that they are first-mortgage bonds issued in accordance with and upon the conditions of said act; and said first mortgage, and bonds issued thereon, shall have priority in favor of said State over any and all other liens whatever; and that so soon as the governor, on the part of said State, shall endorse the bonds of any company, for the first section of any road, as provided in said act, and for each successive section, such endorsement shall constitute a lien upon said section or sections so prepared, including the road-bed, right of way, grading, bridging, and masonry; upon all the stock subscribed for in said company, and upon the iron rails, chains, spikes, and equipments when purchased and delivered. And the said State of Alabama, upon the endorsement of said bonds, and by virtue of the same, shall be vested with said lien or mortgage without a deed from said company, for the payment by said company of said bonds, with the interest thereon, as the same becomes due; and when the whole of said road should be completed, the said State of Alabama shall be invested with a lien, without
75 a deed from the company, upon the entire road, including the stock, right of way, grading, bridges, masonry, iron, rails, spikes, chairs, and the whole superstructure and equipments, and all the property owned by the company as incident to or necessary for its business and depots and depot-stations, for the payment of all of said bonds endorsed for the said company, as provided in said act, and for the interest

accruing on said bonds. And after the governor, on the part of said State, shall have endorsed said bonds for the first section of the road, then it should not be lawful for such company to give, create, or convey to any person or persons, or body corporate whatever, any lien, encumbrance, or mortgage of any kind, which shall have priority over, or come in conflict with, the lien of the State secured, and any such lien, incumbrance, or mortgage shall be null and void as against such lien or mortgage of said State; and the said lien or mortgage of said State shall have priority over all claims existing or to exist against said company. It was further enacted and provided by said act that it should be the duty of said company to deposit with the comptroller of said State of
76 Alabama, at least fifteen days before the interest becomes due from time to time on said bonds endorsed as provided in said act, an amount sufficient to pay said interest, including exchange and necessary commissions, or satisfactory evidence that said interest has been paid or provided for. And if such company fail to deposit said interest or to furnish the evidence as provided in said act, then it should be duty of said comptroller to report that fact to the governor of said State, and that said governor may immediately appoint some suitable person or persons, at the expense of such company, to take possession and control of such railroad and all the assets thereof and manage the same, and secure the rents, issues, profits, and dividends thereof, whose duty it shall be to give bond as provided in said act, and continue in the possession of said road, fixtures, and equipments, and run the same, and manage the entire road until a sufficient sum shall be realized, inclusive of the costs and expenses incident to such proceedings, to pay off and discharge the interest due on said bonds, and, this being done, to surrender such road, fixtures, and equipments to said company; and
77 said comptroller was authorized, and it shall be his duty, to draw, upon his warrant, from the treasury of said State any sum of money necessary to meet the interest on said bonds not provided for by said company as required by said act; and that said act shall be deemed and taken a public act as to all purposes of notice.

Second. That the general assembly of said State of Alabama enacted "An act to amend the law to establish a system of internal improvements in the State of Alabama," approved Sept'r 22nd, 1868, by which act it was enacted and provided, among other provisions and things, that the first and third sections of said act entitled "An act to establish a system of internal improvements in the State of Alabama," approved Feb'y 19th, 1867, be repealed; and in lieu thereof it was enacted and provided that whenever any railroad company then incorporated, or which may thereafter be incorporated, by the general assembly of said State of Alabama, shall have furnished, equipped, and completed twenty continuous miles at or near either or both ends of such road, it shall be the duty of the governor of said State of Alabama, and
78 he is required, to endorse on the part of the State the first-mortgage bonds of said railroad company to the extent of sixteen thousand dollars per mile for that portion thus finished, equipped, and completed; and when a second section of five miles is finished, equipped, and completed, it shall be the duty of the said governor, and he is required, to endorse the first-mortgage bonds of said railroad company to the extent of sixteen thousand dollars per mile for the said section of five miles so finished, equipped, and completed; and this rate of endorsements shall be continued upon the same conditions upon each subsequent section of five miles, unless said railroad is completed. And whenever any railroad, under the management of and belonging to a

corporation chartered by the general assembly of said State, extends beyond the limits of said State into any other State or States, and the corporation so chartered shall have twenty continuous miles of said road finished, equipped, and completed, outside of the said State of Alabama, and extending in the direction of its terminus in said State of Alabama,
and shall guarantee to the satisfaction of the governor of said
79 State of Alabama the completion and equipment of said road to its terminus within the said State of Alabama, in a reasonable time, to be prescribed by said gove'nor, and shall further guarantee to the satisfaction of said governor that said road and bridges shall be of the grade and character known as first class, it shall be the duty of the governor of said State of Alabama, and he is required, to endorse on the part of said State the first-mortgage bonds of said railroad company to the extent of sixteen thousand dollars per mile for the twenty continuous miles so *fur*nished, equipped, and completed; and when a second section of five miles is finished, equipped, and completed, it shall be the duty of the governor of said State of Alabama, and he is required, to endorse the first-mortgage bonds of said railroad company to the extent of sixteen thousand dollars per mile for the said section of five miles so finished, equipped, and completed; and this rule of endorsement shall be continued upon the same conditions for each subsequent section of five miles until said railroad is completed; provided, that no bonds endorsed under the provisions of said act shall be sold for less than
80 ninety cents on the dollar; that the provisions of said act shall not apply to roads of a less length than *than* thirty miles, nor to the New Orleans, Mobile & Chattanooga Railroad; that said bonds shall constitute a lien on the whole road, whether lying in or out of said State of Alabama; and that the provisions of said act relating to the extension of said railroads beyond the limits of said State of Alabama shall not apply in favor of any railroad company except the Wills Valley Railroad Company.

It was further enacted and provided by said act that a notification to the governor of said State of Alabama by any corporation engaged in the construction of a road within the provisions of said act that such company will construct said road with a view to the obtainment of bonds under the endorsement of said act, and the actual bona-fide completion of twenty continuous miles of the same, shall amount to a contract upon the part of the corporation that it will, within a reasonable time, finish, equip, and complete the same, and upon the part of the State that it will endorse the bonds of such corporation upon the conditions and in the manner prescribed by said act.

81 Third. That the Northeast & Southwest Alabama Railroad Company and the said Wills Valley Railroad Company were two separate, several, and distinct corporations, incorporated by the general assembly of said State of Alabama several years prior to the 6th day of October, 1868; and the said general assembly of said State of Alabama enacted an act entitled "An act to authorize the consolidation of the Northeast & Southwest Alabama Railroad Company with the Wills Valley Railroad Company, and to provide for the organization of the corporation formed by such consolidation, and to give it the benefit of the State's endorsement of its bonds, and to regulate the said consolidation," approved October 6th, 1868, by which act it was enacted and provided, with other provisions and things, that the said Northeast & Southwest Alabama Railroad Company and the said Wills
Valley Railroad Company be and are authorized and empow-
82 ered to contract together for the consolidation and amalgamation

of the said Northeast & Southwest Alabama Railroad Company and the said Wills Valley Railroad Company, and upon the completion of such contract the said Northeast & Southwest Alabama Railroad Company and the said Wills Valley Railroad Company shall become a corporation by the name of the Alabama & Chattanooga Railroad Company, and by that name may sue and be sued, plead and be impleaded. And the said corporation formed by such consolidation and amalgamation shall be entitled to all the franchises, rights, privileges, and immunities granted or pertaining to either the said Northeast & Southwest Alabama Railroad Company, or the said Wills Valley Railroad Company, or to both of them, either by the laws of said State of Alabama or of other States, or of the United States, except in so far as such franchises, rights, privileges, and immunities might be
83 changed by said act; and said corporation shall be invested with all the property, real and personal and mixed, of every description, including road-beds, cross-ties, rails, right of way, depots, water-tanks, subscriptions of stock, bridges, locomotives, engines, cars, machine-shops, tools, implements, lands, improved and unimproved, and any other right or property belonging or appertaining to either or both of said roads, whether such property be situated in said State of Alabama or any other States; and if such consolidation and amalgamation shall be made, the said Alabama & Chattanooga Railroad Company shall be entitled to the benefit of an act entitled "An act to amend the law to establish a system of internal improvements in the State of Alabama," approved September 22nd, 1868, as to so much of its road as extends from its southwestern terminus to a point at or near Elyton. But before any indorsement is made under said fifth section of said
84 act, the said road must be freed from all liens and mortgages; and for the purpose of such endorsement the intersection of the Mobile & Ohio Railroad shall be considered the terminus without the State, and a point at or near Elyton the terminus within the State of Alabama.

The general assembly of the said State of Alabama also enacted another act entitled "An act relating to the Wills Valley Railroad Company and the Northeast & Southwest Alabama Railroad Company," approved November 17th, 1868, by which act it was enacted and provided, with other provisions and things, that the said Wills Valley Railroad Company be authorized and empowered to purchase, at private or public sale, under the mortgage, *of* the said Northeast & Southwest Alabama Railroad Company, without distinction of section, together with all and singular the appurtenances and franchises, the grading and local work, the rolling-stock of every description including locomotives, all warehouses, workshops, and engine-houses, together
85 with all the fixtures of whatever material belonging to said Northeast & Southwest Alabama Railroad Company; and the said Wills Valley Railroad Company may, under and by virtue of said purchase, have and use all of said property, railroad, and franchises, together with all the immunities, rights, and privileges then vested or which may thereafter vest in the said Northeast & Southwest Railroad Company, whether in the State of Alabama or in the State of Mississippi; provided, however, that said purchase under said mortgage shall be at a sum not less than the principal and interest of the said debt to the State of Alabama, to be paid in securities satisfactory to the governor; and that the said Wills Valley Railroad Company be authorized and empowered to purchase at any mortgage sale, and to purchase and acquire by gift, release, relinquishment, or any other species of convey-

corporation chartered by the general assembly of said State, extends beyond the limits of said State into any other State or States, and the corporation so chartered shall have twenty continuous miles of said road finished, equipped, and completed, outside of the said State of Alabama, and extending in the direction of its terminus in said State of Alabama,
and shall guarantee to the satisfaction of the governor of said
79 State of Alabama the completion and equipment of said road to its terminus within the said State of Alabama, in a reasonable time, to be prescribed by said gove'nor, and shall further guarantee to the satisfaction of said governor that said road and bridges shall be of the grade and character known as first class, it shall be the duty of the governor of said State of Alabama, and he is required, to endorse on the part of said State the first-mortgage bonds of said railroad company to the extent of sixteen thousand dollars per mile for the twenty continuous miles so *fur*nished, equipped, and completed; and when a second section of five miles is finished, equipped, and completed, it shall be the duty of the governor of said State of Alabama, and he is required, to endorse the first-mortgage bonds of said railroad company to the extent of sixteen thousand dollars per mile for the said section of five miles so finished, equipped, and completed; and this rule of endorsement shall be continued upon the same conditions for each subsequent section of five miles until said railroad is completed; provided, that no bonds endorsed under the provisions of said act shall be sold for less than
80 ninety cents on the dollar; that the provisions of said act shall not apply to roads of a less length than *than* thirty miles, nor to the New Orleans, Mobile & Chattanooga Railroad; that said bonds shall constitute a lien on the whole road, whether lying in or out of said State of Alabama; and that the provisions of said act relating to the extension of said railroads beyond the limits of said State of Alabama shall not apply in favor of any railroad company except the Wills Valley Railroad Company.

It was further enacted and provided by said act that a notification to the governor of said State of Alabama by any corporation engaged in the construction of a road within the provisions of said act that such company will construct said road with a view to the obtainment of bonds under the endorsement of said act, and the actual bona-fide completion of twenty continuous miles of the same, shall amount to a contract upon the part of the corporation that it will, within a reasonable time, finish, equip, and complete the same, and upon the part of the State that it will endorse the bonds of such corporation upon the conditions and in the manner prescribed by said act.

81 Third. That the Northeast & Southwest Alabama Railroad Company and the said Wills Valley Railroad Company were two separate, several, and distinct corporations, incorporated by the general assembly of said State of Alabama several years prior to the 6th day of October, 1868; and the said general assembly of said State of Alabama enacted an act entitled "An act to authorize the consolidation of the Northeast & Southwest Alabama Railroad Company with the Wills Valley Railroad Company, and to provide for the organization of the corporation formed by such consolidation, and to give it the benefit of the State's endorsement of its bonds, and to regulate the said consolidation," approved October 6th, 1868, by which act it was enacted and provided, with other provisions and things, that the said Northeast & Southwest Alabama Railroad Company and the said Wills Valley Railroad Company be and are authorized and empow-
82 ered to contract together for the consolidation and amalgamation

of the said Northeast & Southwest Alabama Railroad Company and the said Wills Valley Railroad Company, and upon the completion of such contract the said Northeast & Southwest Alabama Railroad Company and the said Wills Valley Railroad Company shall become a corporation by the name of the Alabama & Chattanooga Railroad Company, and by that name may sue and be sued, plead and be impleaded. And the said corporation formed by such consolidation and amalgamation shall be entitled to all the franchises, rights, privileges, and immunities granted or pertaining to either the said Northeast & Southwest Alabama Railroad Company, or the said Wills Valley Railroad Company, or to both of them, either by the laws of said State of Alabama or of other States, or of the United States, except in so far as such franchises, rights, privileges, and immunities might be
83 changed by said act; and said corporation shall be invested with all the property, real and personal and mixed, of every description, including road-beds, cross-ties, rails, right of way, depots, water-tanks, subscriptions of stock, bridges, locomotives, engines, cars, machine-shops, tools, implements, lands, improved and unimproved, and any other right or property belonging or appertaining to either or both of said roads, whether such property be situated in said State of Alabama or any other States; and if such consolidation and amalgamation shall be made, the said Alabama & Chattanooga Railroad Company shall be entitled to the benefit of an act entitled "An act to amend the law to establish a system of internal improvements in the State of Alabama," approved September 22nd, 1868, as to so much of its road as extends from its southwestern terminus to a point at or near Elyton. But before any indorsement is made under said fifth section of said
84 act, the said road must be freed from all liens and mortgages; and for the purpose of such endorsement the intersection of the Mobile & Ohio Railroad shall be considered the terminus without the State, and a point at or near Elyton the terminus within the State of Alabama.

The general assembly of the said State of Alabama also enacted another act entitled "An act relating to the Wills Valley Railroad Company and the Northeast & Southwest Alabama Railroad Company," approved November 17th, 1868, by which act it was enacted and provided, with other provisions and things, that the said Wills Valley Railroad Company be authorized and empowered to purchase, at private or public sale, under the mortgage, *of* the said Northeast & Southwest Alabama Railroad Company, without distinction of section, together with all and singular the appurtenances and franchises, the grading and local work, the rolling-stock of every description including locomotives, all warehouses, workshops, and engine-houses, together
85 with all the fixtures of whatever material belonging to said Northeast & Southwest Alabama Railroad Company; and the said Wills Valley Railroad Company may, under and by virtue of said purchase, have and use all of said property, railroad, and franchises, together with all the immunities, rights, and privileges then vested or which may thereafter vest in the said Northeast & Southwest Railroad Company, whether in the State of Alabama or in the State of Mississippi; provided, however, that said purchase under said mortgage shall be at a sum not less than the principal and interest of the said debt to the State of Alabama, to be paid in securities satisfactory to the governor; and that the said Wills Valley Railroad Company be authorized and empowered to purchase at any mortgage sale, and to purchase and acquire by gift, release, relinquishment, or any other species of convey-

ance, all franchises, all property, real, personal, and mixed, and choses in action, whether existing in Alabama or Mississippi, which then belonged, or theretofore belonged, or may thereafter belong to the said Northeast and Southwest Alabama Railroad Company, and all
86 liens and incumbrances upon any such property then claimed or held by the said Northeast & Southwest Alabama Railroad Company or by any other person or persons, under mortgage or otherwise, including the lands donated or proposed to be donated by the Congress of the United States to the said Northeast & Southwest Alabama Railroad Company. And said Wills Valley Railroad Company may rescind or modify the agreement for the consolidation and amalgamation of said two railroad companies previously made by and between them; and they or either of them shall have full power and authority to make such contracts between themselves and with others as may be appropriate to make the said Wills Valley Railroad Company a purchaser with unclouded title to the Northeast & Southwest Alabama Railroad Company, its franchises and property, real and personal, and its rights of every description; and that the said Wills Valley Railroad Company may, after acquiring the property and franchises the said Northeast & Southwest Alabama Railroad Company, through its president and secretary, upon notice by either of them in some newspaper published in said State of Alabama, change its name to the Alabama & Chattanooga Railroad
87 Company, and thenceforward sue and be sued, and exercise all the corporate authority and functions, rights, and privileges of both the said Northeast and Southwest Alabama Railroad Company, and the Wills Valley Railroad Company, and have and enjoy all property acquired under said act. It was further enacted and provided by said act that whenever it shall appear to the governor of said State of Alabama, by satisfactory proof, that at least twenty continuous miles of the said Northeast & Southwest Alabama Railroad, commencing at its southwestern terminus, Meridian, in Mississippi, are finished, equipped, and completed, it shall be the duty of the gove'nor of said State of Alabama, and he is required, to endorse on the part of the said State the first-mortgage bonds of the corporation which shall then own the franchise of the said Northeast & Southwest Alabama Railroad Company, to the extent of sixteen thousand dollars per mile for that portion thus finished, equipped, and completed; and when a second section of five miles is finished, equipped, and completed, it shall be the duty of the governor of said State of Alabama to endorse the first-mortgage bonds of said railroad company to the extent of sixteen
88 thousand dollars per mile for the said section of five miles, so finished, equipped, and completed; and this rate of endorsement shall be continued, upon the same conditions, for each subsequent section of five miles; provided, that said railroad shall first guarantee to the satisfaction of said gove'nor the completion and equipment of said road within a reasonable time to be prescribed by him, and shall further guarantee to the satisfaction of the said gove'nor that the road and bridges shall be of the grade and character known as first class, and that no bonds shall be sold for less than ninety cents on the dollar, and that said bonds shall constitue a lien upon the whole road, whether lying in or out of the said State of Alabama.

The said Northeast & Southwest Alabama Railroad Company and the said Wills Valley Railroad Company, by the authority and virtues of, and in accordance with and pursuance of, said act entitled "An act to authorize the consolidation of the Northeast & South-
89 west Alabama Railroad Company with the Wills Valley Railroad

Company, and to provide for the organization of the corporation formed by such consolidation, and to give it the benefit of the State's endorsement of its bonds, and to regulate the said consolidation," approved October 6th, 1868, did contract together for the consolidation and amalgamation of the said Northeast & Southwest Alabama Railroad Company with the said Wills Valley Railroad Company, but the terms of said contract are unknown to your orator.

Afterwards, and by authority and in pursuance and in accordance with said act entitled "An act relating to the Wills Valley Railroad Company and the Northeast & Southwest Alabama Railroad Company," approved November 17th, 1868, the said Wills Valley Railroad Company did purchase at a sale, under the mortgage of the said Northeast & Southwest Alabama Railroad Company to the governor
90 of said State of Alabama, all the railroad of the said Northeast & Southwest Alabama Railroad Company, together with all and singular the appurtenances and franchises, the grading and local work, the rolling-stock of every discription, including locomotives, all warehouses, workshops, and engine-houses, together with all the fixtures, of whatever material, belonging to the said Northeast & Southwest Alabama Railroad, and made a contract between themselves, by the terms of which the said Wills Valley Railroad Company became the purchasers of and acquired, with unclouded title, the said Northeast & Southwest Alabama Railroad Company, its franchises and property, real and personal, and its rights of every description; and, after acquiring the property and franchises of the said Northeast & Southwest Alabama Railroad Company, and upon notice given in the manner and one of the officers prescribed in said act, changed its name to the Alabama and Chatta-
91 nooga Railroad Company, and duly organized as such, as provided in said act; and the said Alabama and Chattanooga Railroad Company was, prior to and on the 2nd day of December, 1868, has been ever since, and still is a railroad company, incorporated by the general assembly of the State of Alabama.

Fourth. That the directors of the said Alabama & Chattanooga Railroad Company, at a meeting held in the city of Boston, State of Massachusetts, on the 2nd day of December, 1868, voted and resolved in substance as follows: First. That the said Alabama & Chattanooga Railroad Company will construct the said railroad with a view to the obtainment of the endorsement of its bonds by the said State of Alabama. Second. That the company will create, issue, dispose of, for not less than ninety cents on the dollar, these bonds, payable at the National Security Bank of Boston, in the Commonwealth of Massachusetts, on the 1st day January, 18 , with interest at the rate of eight per cent. per an-
92 num, payable semi-annually on the 1st days of January and July in each year, for one thousand dollars each, and not to exceed at the rate of sixteen thousand dollars per mile of said railroad, and to be dated as made on the 1st day of January, 1869; that a warrant for each semi-annual payment shall be made and annexed to each bond; that said bonds shall be prepared by the treasurer of said company, and signed by him and the president for and on behalf of the company, and shall have annexed to them a certificate of authentication by at least two of the trustees under the mortgage made to secure them, and shall not be issued or obligatory without such certificate. Third. That said bonds shall be, and shall recite the fact that they are, first-mortgage bonds issued in accordance with and upon the conditions of the said act entitled "An act to establish a system of internal improvements in the State of Alabama," approved February 18, 1867, and the said

93 act entitled "An act to amend the law to establish a system of internal improvement in the State of Alabama," approved September 22nd, 1868, and of said act entitled "An act relating to the Wills Valley Railroad Company and the Northeast & Southwest Alabama Railroad Company," approved November 17th, 1868, and that they shall have a priority in favor of the State of Alabama over any and all liens whatever. Fourth. That the company grants, ratifies, and confirms unto the State of Alabama all liens, rights, powers, priorities, and privileges which the aforesaid acts provided that the State of Alabama shall have and enjoy in reference to said bonds. Fifth. That, for the purpose of securing the payment of the principal and interest of said bonds, the company make and deliver a mortgage and deed of trust, conveying to Seth Adams, Francis Dane, and John Demerrit, as trustees, all the railroad franchises, rights, and property mentioned in the mortgage afterwards executed and hereinafter stated and set
94 forth, for the security, protection, and benefit of the State of Alabama, in the manner provided by the several acts above mentioned, and subject thereto, of the holders of said bonds; that said mortgage-deed shall be signed by the president and treasurer for on behalf of the company, and bear date as made on the day of December, A. D. 1868.

Fifth. That the said Alabama & Chattanooga Railroad Company, by authority of said vote and resolutions of said directors, and for the purpose of obtaining the endorsement of its bonds by the said State of Alabama, under the provisions of the said several acts of the general assembly of said State of Alabama mentioned in said resolutions, and securing the payment of said bonds and the interest accruing thereon, executed, on the 19th day of December, 1868, to said Seth Adams, Francis Dane, and John Demerrit, as trustees, a first-mortgage and trust-deed, a copy of which is hereto annexed as Exhibit A, conveying to them, as said trustees, its railway, extending from its terminus at
95 Chattanooga, in the State of Tennessee, through the State of Alabama to its terminus at Meridian, in the State of Mississippi, and all the other property of every description mentioned and set forth in said Exhibit A thereby conveyed. By the terms and provisions of said mortgage and trust-deed, in case default be made by the said Alabama & Chattanooga Railroad Company in the payment of any half-year's interest in said bonds, or any of them, and the warrant or coupon for such interest shall have been presented and its payment demanded, and such default shall have continued for three months after such demand, without the consent of the holders of such coupons or bond, then and thereupon the principal of all of said bonds thereby secured shall be and become immediately due and payable, anything in such bond to the contrary notwithstanding.

Sixth. That the said Alabama and Chattanooga Railroad Company, after the execution of said mortgage and trust-deed, and by au-
96 thority of and in accordance with said vote and resolution of said directors, made and issued a large number of said bonds, to wit, forty-seven hundred and twenty, each of said bonds being for the sum of one thousand dollars, bearing date on the first day of January, 1869, & payable on the day of January, 1869, which said bonds were indorsed by the gove'nor on the part of the State of Alabama, in accordance with and in pursuance of and in the manner prescribed by the said several acts of the general assembly of said State of Alabama recited and mentioned in the said resolutions of the said directors, and were the bonds mentioned in and intended to be secured by said mortgage

and trust-deed; that a half-year's interest on said *said* bonds became due and payable on the 1st day of January, 1871, and the warrant or coupons for said interest were presented at the said National Security Bank of Boston and payment demanded, and the said Alabama & Chattanooga Railroad Company made default in the payment of said interest, which default has continued for more than three months from
97 the time of said presentation and demand, and still continues; whereby the principal of all of said bonds became and is now due and payable, and the said State of Alabama, as endorser in said bonds, became liable for the payment of said interest, and has paid a large part of said interest, to wit, the sum of one hundred and sixty-eight thousand and eighty-eight dollars. Another half-year's interest on said bonds became due and payable on the first day of July, 1871, and the said Alabama & Chattanooga Railroad Company again made default in the payment of said interest, and the said State of Alabama, as endorser on said bonds, became liable for the payment of said interest due on said first day of July, 1871, and has paid a large part of the same, to wit, the sum of one hundred ninety-four thousand one hundred and eighty-nine dollars.

Seventh. That the said Alabama & Chattanooga Railroad Com-
98 pany is indebted to other persons besides the State of Alabama in a large, to wit, several millions of dollars, and is insolvent; and the officers of said company have left the States of Alabama, Tennessee & Mississippi, and are making no provision for the payment of said indebtedness, or any part thereof, or said interest, and some of the creditors of said company have already attached some of the personal property of said company in the States of Georgia and Tennessee, and it is apprehended that the same will be done in the State of Alabama; that the road-bed and personal property of said company is liable to waste and injury, and is now being greatly wasted and injured and depreciated in value; and to prevent this waste and injury and protect as far as possible the rights of the State of Alabama, the governor thereof, under and by virtue of the powers vested in him by said act of the general assembly entitled "An act to establish a system of internal improvements in the State of Alabama," has appointed one
99 John H. Gindrat receiver; but the earnings of said railroad are wholly insufficient to pay the necessary expenses and said interest on said bonds, and the powers of said receivor, under said act of the general assembly, extending only to the management and running of said railroad, are insufficient to protect the rights and interests of the State of Alabama. The said receiver has obtained possession of a large portion of said property of said company, and the governor of the State of Alabama, by whose direction this bill is filed, hereby offers to do whatever may be necessary and proper to put in the possession of any receivor, who may be appointed by your honor, all of said property of which the said Gindrat as said receivor has obtained the possession. The said Seth Adams, Francis Dane, and John Demerrit, to whom said mortgage and trust-deed was executed as said trustees, reside out of the State of Alabama, to wit, in the State of Massachusetts, and are
100 doing nothing towards the enforcement of said mortgage and trust-deed.

To the end, therefore, that the defendants may show cause why your orator should not have the relief hereby prayed, and may answer make to such of the statements of this bill hereinbefore numbered and set forth, as by the note hereunder written they are required to answer, may it please your honor to grant a summons to be directed to the said

Alabama & Chattanooga Railroad Company, and an order of publication against the said Seth Adams, Francis Dane, and John Demerrit, commanding each of them to answer make as herein required, and that your honor will appoint some suitable person receivor of said railroad company, and, on hearing, your orator prays for general relief, and specially that your honor will decree a foreclosure of said mortgage and a sale of all of said property conveyed by said mortgage and trust-deed which may be within the State of Alabama; and your honor will
101 ascertain in such manner as to your honor may seem proper, the amount of interest on said bonds which has been paid by the State of Alabama, and for this amount that the State of Alabama be subrogated to the rights of the holders of said bonds.

And your orator will ever be.

STONE, CLOPTON & CLANTON,
Sol'c't'r's for Compl't.

NOTE.—Each defendant is required to answer each and every statement of this bill. An answer under oath waived.

STONE, CLOPTON & CLANTON,
Sol'c't'r's for Compl't.

102 MONTGOMERY, ALA., *September 2nd*, 1871.

Messrs. Stone, Clopton & Clanton:

You are directed, as attorneys for the State of Alabama, to file the foregoing bill in favor of the State of Alabama against the Alabama and Chattanooga Railroad Company et als., in any chancery court in the State of Alabama having jurisdiction.

ROBT. B. LINDSAY,
Governor of the State of Alabama.

Filed 4th September, 1871.
Attest:

GEO. B. SAUNDERS,
Spec'l Register.

103 *Interlocutory order & decree of chancellor, appointing John A. Winston receivor.*

104 In chancery for the county of Sumpter, western division.

THE STATE OF ALABAMA
vs.
THE ALABAMA & CHATTANOOGA RAILROAD ET als.

This is a bill filed by the State of Alabama, by the direction of Robert B. Lindsay, governor of said State, against the Alabama & Chattanooga Railroad Company. The bill is necessarily voluminous and sets forth the several acts of the legislature of the State of Alabama in regard to the endorsement of the bonds of the said railroad company by the State of Alabama; the default made by the said company in the payment of the interest, which has accrued on the bonds so endorsed by the State for and on account of said Alabama & Chattanooga Railroad Company; it also sets out the deeds of mortgage made and executed by said company to secure the State from all

loss in consequence of its endorsement of said bonds. The bill alleges that all the trustees named in the deeds of mortgage executed by
105 the company are now residents of the State, and that they have made no effort to execute the trust confided to them, and are not now making any efforts to execute said trust. The bill further alleges that the appointment of a receiver of the aforesaid Alabama & Chattanooga Railroad is absolutely necessary, and prays that one be appointed without delay and that the mortgage be foreclosed. I think the interest of both the complainant and defendant demands that a receiver of said railroad should be appointed. It is clearly to the interest of the State that the value of the railroad and its property should not be depreciated and destroyed by mismanagement and wastefulness, as that is the only reliable security held by the State.

It is also manifestly to the interest of the defendant, the Alabama and Chattanooga Railroad Company, that its property should be prudently managed and carefully husbanded. There has been a good deal of clamor against said company; but loud and deafening as the clamor may have been, or is still, it should never possess the weight of a
106 feather with a court of justice. The Alabama & Chattanooga Company is unquestionably entitled to the same measure of justice that would be meeted out to any other suitor; less than this would be an ineffaceable blot upon the escut'heon of the State. It certainly would not be just to the company to suffer its property to be mismanaged, wasted, and squandered.

I would much prefer that the defendant had had notice of this application to appoint a receiver, but as this notice could only be given by publication, and the necessity for the appointment of such receiver is pressing, I shall appoint a receivor of said railroad, with leave to the defendant to show cause why such receivor should not be appointed. I will hear said motion at any time, upon proof that the State of Alabama has had ten days' notice of the determination to make the same.

But who shall I appoint to the important office of receivor? The receivor should be a man of proved integrity, sound judgment, undoubted prudence, and fixed habits of frugality; in short, a person who
107 will not regard the railroad in the light of a trough out of which all the impecunious politicians & lawyers are to be fed with the utmost profusion, but who will manage the property placed in his hands as economically, vigilantly, and judiciously as though it was his own individual property. It would be very improper in me to confer so very important an office as that of receivor of this great railroad upon any mere creature of my own or any man of even doubtful fitness.

I consider John A. Winston a proper person to be appointed receiver of this road. He is possessed of a sound judgement, frugal habits, strong common sense, a high sense of justice, and is neither to be cajoled nor terrified into doing anything which his judgment condemns. I have every confidence that he would manage the road as carefully and frugally as though it were his own; and that he would not abuse the trust placed in him by employing more men than were actually necessary, or by paying them unusual and exorbitant salaries, or by employing incompetent persons. I believe he would do full and
108 entire justice to both the complainant and the defendant, and possess the confidence of the entire public. I will underwrite for him that he will neither steal anything himself nor suffer any of his employees to steal; an important qualification in this day, when moral laxity is so rife.

But Ex-Gov. Winston is related to me. If he is, we are politically

antagonized, and for the past six years have not been upon terms of ordinary civility, much less of friendship, nor is it likely we ever will be in the time to come. This fact is mentioned merely to vindicate myself from any charge of being influenced by personal friendship or ties of relationship. The State of Alabama has a lien on the Alabama & Chattanooga Railroad for probably seven millions, in round numbers. Every citizen in the State, rich & poor, white & colored, is directly interested in the qualifications and fitness of the person appointed receiver of this road, and unquestionably the railroad company is equally concerned in having its property prudently, judiciously, & frugally managed. This consideration alone has influenced me to appoint John A. Winston receiver of this road, his name never having been so much as suggested to me by any person. I hope he will accept this trust, for the sake of the people of the State and for the sake of the owners of the Alabama & Chattanooga Railroad, both of whom want a man at once honest, economical, prudent, and disregardful of public clamor, as well as independant of any mere private influences. But as I have no knowledge of his purposes, and as he may possibly decline so onerous an office, I shall appoint the Hon. Francis S. Lyon, of Maringo, receivor in case John A. Winston shall decline, so as to prevent any interest from suffering from delay. Mr. Lyon is sound, prudent, frugal, honest, & abundantly capable.

Enroll the following interlocutory decree in the above-entitled cause:

It appearing that a pressing necessity exists for the appointment of a receivor of the Alabama & Chattanooga Railroad, it is ordered, decreed, and adjudged, that John A. Winston, of the county of Mobile and State of Alabama, be, and he is hereby, appointed & constituted receivor of said Alabama & Chattanooga Railroad, together with all of its property, real and personal, within the State of Alabama, and it is further ordered that said receivor, before entering upon said office, shall execute a bond with at least two sufficient sureties in the sum of two hundred thousand dollars, to be approved by the chancellor of the western division.

2nd. In case the aforesaid John A. Winston should decline to act as such receivor, it is ordered, decreed, and adjudged, that in that event Francis S. Lyon, of the county of Marengo and State of Alabama, shall act as such receivor upon entering into bonds as hereinbefore prescribed.

3rd. It is ordered and directed that the said receivor, upon entering into bond, shall run trains upon said Alabama & Chattanooga Railroad, under experienced and careful engineers & conductors, and keep an accurate and careful acccount of all the receipts and disbursements, and report to this court semi-monthly the aggregate receipts and disbursements, in order that the court may see whether it be advisable to continue the running of trains on said road.

4th. The said receivor will institute a rigid investigation into the number of employees absolutely necessary to the proper running of said road, and proceed to discharge all employees not found to be necessary. He will also discharge all employees and officers who may be found incompetent or neglectful of their duties.

5th. It is ordered, that within fifteen days of the date hereof, or sooner, provided the receivor give bond, said Alabama & Chattanooga Railroad, and its depots, rolling-stock, telegraph-lines, and offices, and all or any other property of said railroad, situated within the limits of the State of Alabama, shall be delivered to the receivor herein appointed, and if the same be not so delivered, a writ of possession shall be issued

by the register of this court, and an attachment against all parties refusing so to deliver said property, returnable to the November term
112 of the chancery court. It is, too, expressly understood that upon ten days' notice, to the State, by serving notice upon the governor of the State, the defendant may be heard at any time at Gainesville, on a motion to revoke the present order appointing a receivor.

Done in vacation, September 9th, 1871.

(Signed) A. W. DILLIARD,
Chancellor.

Filed in September, 1871.
Attest:

GEO. B. SAUNDERS,
Special Register.

113 *Order of app't of Chas. Walsh as receiver & bond of Walsh as receiver.*

114 And, at another day, to wit, on Nov. 1st, 1871, was filed in said cause another interlocutory order, which, together with the special register's endorsement thereon, is in the words & figures following, to wit:

In chancery, for the county of Sumpter.

THE STATE OF ALABAMA
vs.
THE ALABAMA & CHATTANOOGA RAILROAD et als.

In this cause John A. Winston, esq., having been appointed receivor of said Alabama & Chattanooga Railroad, and having declined to accept said position, and F. S. Lyon also declining said receivorship, and the said receivors having been appointed by the chancellor in vacation, it is now ordered that the following order be enrolled in this cause:

It appearing to the satisfaction of the chancellor that the receivors heretofore appointed have declined to accept the trust confided to them, it is now, therefore, ordered, decreed, and adjudged by the chancellor that Charles Walsh, esq., of Mobile, be, and he is hereby, appointed
115 receivor of so much of the Alabama & Chattanooga Railroad as is situate in the State of Alabama, together with all its property & franchises of every sort and description, & that upon entering into bond with two good sureties to be approved by the chancellor, in the sum of two hundred thousand dollars, said Charles Walsh, esq., shall proceed without delay to take possession of said railroad and all its property in said State of Alabama, and control and manage the same, pursuant to the directions of this court and the present decree.

It is decreed that the said Charles Walsh, esq., receivor as aforesaid, shall give his personal attention to the management of said Alabama & Chattanooga Railroad, and shall have power to remove any or all of the present officers of said road, and appoint others in their place and stead, should the interest of said road render such action necessary on the part of said receivor.

It is ordered that the said Charles Walsh, esq., receivor as aforesaid, shall keep an accurate account of the receipts and disbursements of said Alabama & Chattanooga Railroad, and file with
116

the register of this court a semi-monthly report, showing the aggregate receipts and disbursements, in order that the court may see whether it be advisable and proper to continue to run trains on said road.

It is further ordered that said Charles Walsh, esq., receiver as aforesaid, institute an enquiry as to the number of employees necessary to operate said road, and that he discharge all supernumeraries; and it is also expressly ordered and directed that said road shall be operated and managed, in all its departments, with the strictest economy, and in view of its being a trust placed in the said receiver, and it is hereby made the express duty of said receiver to see that the strictest economy is used by all the officers of said railroad in their official relations to said railroad, and that no useless expense be incurred in the operating of said road by the superintendents or engineers or any other employees.

Done in vacation, October 30th, 1871.

(S'gn'd) H. W. DILLARD,
Chancellor.

Filed Nov. 1st, 1871.
Attest:

GEO. B. SAUNDERS,
Spec'l Register.

117 And at another day, to wit, on the 21st Nov., 1871, was filed in said cause the bond of Charles Walsh, receivor, which, together with the register's certificate of filing thereon, endorsed in the words and figures following, to wit:

Know all men by these present' that we, Charles Walsh, M. Waring, and James Crawford, all of the city of Mobile, in the State of Alabama, are held and firmly bound unto George B. Saunders, special register of the court of chancery for the county of Sumpter, in the said State of Alabama, for the use of whom it may concern, in the penal sum of two hundred thousand dollars, to be paid to said George B. Saunders, special register aforesaid, his successors and assigners; to which payment well and truly to be made, we bind ourselves, our, and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated this seventh day of November, A. D. 1871.

The conditions of the above obligation is such that, whereas the
118 above-bonded Charles Walsh hath been appointed by the honorable A. W. Dillard, chancellor of said court, in a certain cause depending therein, wherein the State of Alabama *in* the plaintiff, and the Alabama & Chattanooga Railroad Company and others are defendants, receivor of the property and effects of said railroad company: Now, therefore, if the said Charles Walsh shall perform all duties of said office of receivor conformably to the orders and decrees of said court, then the above obligation to be void; otherwise to remain in full force and virtue.

CHARLES WALSH, [SEAL.]
M. WARING, & [SEAL.]
JAS. CRAWFORD. [SEAL.]

Sealed and delivered in the presence of—
As to signature of Charles Walsh:
E. H. GRANDIN.
As to signature of M. Waring and Jas. Crawford, witnessed by—
CARY W. BUTTS.

I approve the above bond this the 21st day of November, 1871.
(S'gn'd) A. W. DILLARD,
Chancellor, Western Division.

Filed Nov. 21, 1871.
Attest:
GEO. B. SAUNDERS,
Special Register.

Filed May 30, 1872.
N. W. TRIMBLE.

119 EXHIBIT 2.

In the circuit court, Nov. term, 1871.

THE UNITED STATES OF AMERICA,
Southern District of Mississippi:

To the honorable Robert A. Hill, judge of the circuit court of the United States for the southern district of Mississippi:

The State of Alabama, one of the States of the American Union, brings this bill of complaint against the Alabama and Chattanooga Railroad Company, a body incorporated by an act of the legislature of the State of Mississippi, approved on the day of , A. D. 1871, and shows to your honor that the legislature of the State of Alabama, in the year 1867, passed an act entitled "An act to establish a system of internal improvements in the State of Alabama," which was approved the 19th day of February of that year; and the legislature of said State, in the year 1868, passed another act, entitled "An act to amend the law to establish a system of internal improvements in the State
120 of Alabama," which was approved on the 22nd day of September of that year; and also in the year 1870, said legislature of Alabama passed an act entitled "An act to furnish the aid and credit of the State of Alabama for the purpose of expediting the construction of railroads within the State," which was approved on the 21st day of February in that year; that each of said several acts provide for the indorsement by the State of the bonds of railroad companies in the State of Alabama, to aid in their construction upon the terms, conditions, and to the extent set forth and provided in said acts.

And complainant here exhibits to your honor each of said several acts of the legislature of Alabama as published by the authority of the State; and will also furnish and attach to this bill of complaint, as a part thereof, certified copies of said acts under the hand and seal of the secretary of state, if required to do so.

Complainant further shows that, under and by virtue of the provisions of the said act of the legislature of Alabama, approved on the
121 21st day of February, A. D. 1870, which said act enlarges and amends the two said first-named acts, the Alabama and Chattanooga Railroad Company applied to the governor of the said State of Alabama for the indorsement of its bonds, as provided in said act, and accordingly the governor of said State, from time to time and upon the application and at the request of the said Alabama and Chattanooga Railroad Company, did indorse, in the name of the State, and by its authority, the first-mortgage bonds of said company to the extent of sixteen thousand dollars per mile for the whole length of their railroad, as provided in the second section of said act of the 21st of February, A.

D. 1870; that the length of said railroad is about two hundred and ninety-seven miles, and the whole amount of said first-mortgage bonds so endorsed by the governor of Alabama for the said Alabama and Chattanooga Railroad Company is about four millions seven hundred and fifty-two thousand dollars; that said bonds are payable thirty
122 years after their date, and bear interest at the rate of eight per cent. per annum; and said interest is payable semi-annually on the first days of January and July, respectively, in each and every year until said bonds mature and the principal becomes due and payable.

Complainant further shows unto your honor that the said Alabama and Chattanooga Railway Company, by the provisions and terms of the 4th section of said act of the legislature of Alabama, approved on the 21st day of February, A. D. 1870, is required to deposit with the auditor of the State of Alabama, at least fifteen days before the said interest shall become due and payable, from time to time, upon said bonds, endorsed as aforesaid, an amount sufficient to pay such interest, including exchange and necessary commissions, or satisfactory evidence that said interest was already paid or provided for; and in default of such deposit, or to furnish the evidence aforesaid, it is made the duty of the auditor to report the fact to the governor, and the governor is
123 then required to make provision to meet said interest when due; and thereupon the governor is authorized and empowered to appoint some suitable person or persons, at the expense of the company, to take possession of and control of said railroad and all the assets thereof, and manage the same, and secure the rents, issues, profits, and dividends thereof, &c.

Complainant further shows that on the 1st day of January and the 1st day of July of the present year, 1871, there became due and payable to the holders of said bonds, all of which had been previously sold by said railroad company under the indorsement of the governor of Alabama as aforesaid, and upon each of said days, about the sum of one hundred and ninety thousand dollars, (making together about the sum of three hundred and eighty thousand dollars,) the semi-annual interest which had accrued on said bonds on said days respectively; and that the said railroad company wholly neglected, failed, and refused to deposit with the auditor of public accounts of the said State of Alabama an
124 amount of money sufficient to pay said interest, exchange and the necessary commissions thereon, or to deposit with said auditor satisfactory evidence that the same had been paid or provided for, or in any way or manner to pay off and discharge said sums of each about one hundred and ninety thousand dollars on said 1st day of January and said 1st day of July, the interest accrued, due, and payable to the holders of said bonds, endorsed as before stated by the governor of Alabama; and complainant avers that the State of Alabama, by reason the said default, failure, neglect and refusal of the said Alabama and Chattanooga Railroad Company to pay said interest, became liable, as the endorser of said bonds, to pay, and did pay the same; and complainant avers and charges that under the terms and conditions of the contract between the State of Alabama and the Alabama and Chattanooga Railroad Company, and of the several acts of the legislature of said State under which said State endorsed said bonds, as hereinbefore stated, the governor of the State of Alabame became, was, and is
135 now, entitled, authorized, and empowered, upon the said failure of the said railroad company to deposit the amount of money necessary to pay said interest, or either installment thereof, or any part of the same, or to furnish the evidence of such payment, or that

the same was provided for, to take possession and control of said railroad and all the assets thereof, and manage the same, and secure the rents, issues, profits, and dividends thereof, as provided for in said several acts of the legislature of Alabama hereinbefore referred to.

Complainant further shows to your honor, and avers the truth to be, that said railroad company, having wholly failed to deposit with the auditor of public accounts of the State of Alabama an amount of money sufficient to pay the interest accruing and which became due and payable on the 1st day of January and the 1st day of July, 1871, on the said bonds endorsed by the State of Alabama, as hereinbefore stated, or to deposit satisfactory evidence with said auditor that the same
126 had been paid, or provided for, or to pay the same, as by the terms and conditions of the contract between said railroad company and the State of Alabama, and the provisions of the said several acts of the legislature of said State, as said railroad company was required to do, and the State of Alabama having paid the same, the governor of the State of Alabama, under and by virtue of the power and authority vested in him by said acts of said legislature and the terms and conditions of said contract between said railroad company and said State, and after the failure to pay the second instalment of said interest on said bonds, which became due on the 1st day of July, 1871, took possession and control of all the said railroad, and all the property belonging to and appurtenant to the same lying in the State of Alabama, and still has possession of the same, and appointed John H. Gindrat, a citizen of the State of Alabama, as receiver, under the said 4th section of said act of the legislature of the State of Ala-
127 bama, approved the 21st day of February, 1870, and has fully authorized and empowered said receiver, the said John H. Gindrat, to demand and take into his possession, in the name of the State of Alabama, all the railroad and all the assets thereof, and control and manage the same, and secure all the rents, issues, profits, and dividends thereof, to save harmless the State of Alabama, and indemnify it against loss and liability as endorser of the said bonds for said railroad company, as before stated.

Complainant further shows that about nineteen miles of said railroad lies in the State of Mississippi, extending from the eastern boundary of the State to its southern terminus, the city of Meridian, in Lauderdale County, in said State; that this portion of said railroad, with the property belonging thereto, is situate within the jurisdiction of your honor's court; that said railroad company for more than two months has wholly ceased to operate said portion of said railroad lying in the State of Mississippi, and have even ceased to hold actual posses-
128 sion of it, or the property belonging to the same; that the officers heretofore in the employment of said railroad company in the State of Mississippi have either left the State or ceased to exercise any control over said railroad or the other property of said company in the State of Mississippi; that the offices of the company in said State have been closed and all business of said company wholly stopped; and the said railroad and the property belonging to the same in said State is exposed to constant injury, decay, and waste, and great loss and injury will result to the State of Alabama unless said railroad can be operated along its whole line, and the property belonging to the same, which consists of locomotives, engines, cars, machine-shops, and machinery, buildings, &c., can be used and preserved.

Complainant further shows that the moveable property belonging to said railroad company, such as rolling-stock, &c., and the machine-shops,

depot-house, track, switches, &c., at the city of Meridian, the southern terminus of said railroad, are now held in actual possession by a
129 number of persons, who are said to have been former employees of said Alabama and Chattanooga Railroad Company; that the possession of these persons is forcible and violent and without any authority of law, and that they have refused to surrender said property of said railroad company to the said agent and receiver of the State of Alabama, or to any person authorized to take possession and control of the same by the authority of the governor of Alabama; that the names of all these persons who are holding such forcible and wholly unlawful possession of said property have not been ascertained, but complainant is informed and charges that the most active and violent of these persons who are now wrongfully in possession of said property lying in the State of Mississippi and belonging to said railroad are Fred. Hamstone, R. Westwater, J. Lockard, Ed. Connally, R. Phillips, James Hudson, and Jack Rasberry; and complainant charges the truth to be that the said persons above named, with divers other persons, have combined, confederated, and unlawfully banded themselves together to hold
130 forcible and violent possession of the locomotives, engines, passenger, freight, and hand cars, machine-shops, and all other property of the said Alabama and Chattanooga Railroad Company in the State of Mississippi.

Complainant shows further that the said Fred. Hamstone, R. Westwater, J. Lockard, Ed. Connally, R. Phillips, James Hudson, and Jack Rasberry, and their confederates, by their forciable possession of said railroad property and their refusal to allow passenger and freight trains to be run on the track of said railroad from the Mississippi line to the city of Meridian, have prevented and are still preventing the transportation of the United States mails on said railroad.

Complainant further shows that the said Fred. Hamstone, R. Westwater, J. Lockhard, Ed. Connally, R. Phillips, James Hudson, and Jack Rasberry are residents of the county of Lauderdale, in the southern district of Mississippi; that they are wholly insolvent, and unable to respond in damages to complainant for the injury which they are doing to the property aforesaid.

Complainant further shows that the principal officers, managers,
131 and controllers of the Alabama and Chattanooga Railroad Company are D. N. Stanton, the president of said company, who resides in the city of New York, and J. C. Stanton, the superintendent of said company, who resides in the city of Chattanooga, and State of Tennessee. Complainant is not informed that any officer or agent of said railroad company resides in the State of Mississippi, except J. W. Smith and J. W. Ferrell, esquires, who are attorneys of record of said company in all legal proceedings affecting said railroad company in the State of Mississippi.

1st. The premises considered, complainant prays that the said Alabama and Chattanooga railroad company may be made a party defendant to this bill of complaint, and that process of subpœna issue, to be served on some officer of said company or upon its said attorneys in the State of Mississippi, J. W. Smith and J. W. Farrell, or that such other notice of the filing of this bill of complaint may be given to the said Alabama and Chattanooga Railroad Company as the rules of your honor's court may prescribe.

132 II. That your honor will make an order appointing the said John H. Gindrat, who is now the receiver, appointed by the governor of the State of Alabama, as before stated, as receiver to take pos-

session of said railroad and all the property belonging to the same in the State of Mississippi, and to control and manage the same as provided in the said acts of the legislature of the State of Alabama; and that your honor will also cause the necessary remedial process to issue, directed to the marshal of the United States for the southern district of Mississippi, commanding him to seize the said railroad and its other property of every sort in the State of Mississippi and said district, and place the same in the possession of the said receiver, if appointed by your honor.

III. That your honor grant a writ of injunction, directed to the said Fred. Hamstone, R. Westwater, J. Lockard, Ed. Connally, R. Phillips, James Hudson, and Jack Rasberry, commanding and enjoining them, the said persons, and their associates and confederates, under a
133 certain penalty to be therein expressed, to absolutely refrain from any further interference with the said Alabama and Chattanooga Railroad and all the property belonging to the same in the State of Mississippi, consisting of the road-bed, tracks, and switches, locomotives, engines, cars, machine-shops, and machinery and depot-buildings, and every other species of property belonging to said railroad in the said State of Mississippi.

IV. And complainant prays that your honor will grant such other and further relief as the nature of the complainant's case may require or as may seem equitable and proper; and will ever pray, &c.

(S'gn'd) SHANNON & RAMSEY & EVANS,
Sols. for Complainant.

Filed with fiat of judge for appointment of receiver, injunction, and order of sequestration, Aug. 8th, 1871.

(S'gn'd) GEO. T. SWAN, *Clk.*

In circuit court of the United States for the southern district of Mississippi, June special term, A. D. 1871, (Aug. 8th, 1871.)

134 THE STATE OF ALABAMA
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD et als. } No. 145. In equity.

In this cause, on the application of complainant, and it appearing to the satisfaction of the court that John H. Gindrat has been appointed by the State of Alabama receiver of the Alabama and Chattanooga Railroad Company, and has been duly qualified as such receiver, it is ordered, adjudged, and decreed that the said John H. Gindrat be appointed receiver of said Alabama and Chattanooga Railroad Company in the State of Mississippi, and that as such receiver he take possession and control of all of said railroad in the State of Mississippi, extending from the Alabama line to the city of Meridian, and all locomotives, passenger, freight, and hand cars, all machine-shops and machinery of all kinds connected therewith, station-houses, offices, with furniture and appurtenances, and all materials on hand of every kind for the use of said railroad, all telegraph-lines on said road owned by said
135 company, and all property of every description owned by said company and used in the operation of said railroad, to hold said property and manage the same, and to secure the rents, issues, and dividends thereof, in accordance with the provisions of the acts of the legislature of the State of Alabama in reference thereto. It is further ordered

that the marshal of the southern district of Mississippi deliver possession of the property of the said Alabama and Chattanooga Railroad Company herein described to the said John H. Gindrat, receiver. Ordered, adjudged, and decreed this 8th day of August, 1871.

(S'gn'd) R. A. HILL, *Judge.*

THE STATE OF ALABAMA
vs.
THE ALABAMA AND CHATTANOOGA R. R. Company et al. } In equity.

The clerk of the circuit court for the southern district of Mississippi will issue writs of injunction as prayed for in the bill in this case, to Fred. Hamstone, R. Westwater, J. Lockhard, Ed. Connally, R.
136 Phillips, James Hudson, and Jack Rasberry, and against the Alabama and Chattanooga Railroad Company, to be served on Smith and Farell, their attorneys of record at Meridian. He will also issue a writ of seizure, directed to the marshal of the southern district of Mississippi, to seize and take into his possession all the property of the Alabama and Chattanooga Railroad Company in the State of Mississippi, and deliver possession of the same to John H. Gindrat, receiver appointed by the order of this court.

It is furthered ordered that before these writs issue the complainant enter into bond, with security to be approved by J. P. Allen, U. S. commissioner, at Meridian, in the sum of ten thousand dollars, payable to Fred. Hamstone, R. Westwater, J. Lockard, Ed. Connally, R. Phillips, James Hudson, and Jack Rasberry; and also that the said John H. Gindrat, as receiver, enter into bond, with security to be approved by said J. P. Allen, U. S. commissioner at Meridian, payable to the Alabama and Chattanooga Railroad Company, in the sum of ten thousand dollars, for the discharge of his duties as receiver, said bonds to
137 be filed with the clerk of this court for the southern district of Mississippi. This Aug. 8th, 1871.

(S'gn'd) R. A. HILL, *Judge.*

Bond of receiver.

THE UNITED STATES OF AMERICA:

Circuit court for the southern district of Mississippi.

Know all men by these presents that we, John H. Gindrat, principal, and G. H. Lesser, A. Wolff, W. W. Shearer, C. H. Williams, W. C. McDorgal, J. M. Roberts, W. F. Brown, and W. C. Ford, sureties, are held and firmly bound unto the Alabama and Chattanooga Railroad Company and their assigns in the sum of ten thousand dollars, for the payment of which well and truly to be made we bind ourselves and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals this 8th day of August, 1871.

The condition of the above obligation is such that whereas, on the 8th day of August, 1871, John H. Gindrat was, by the order of the circuit court of the United States for the southern district of Missis-
138 sippi, appointed receiver of the Alabama and Chattanooga Railroad Company, in the State of Mississippi: Now, if the said John H. Gindrat shall well and truly discharge the duties of said office of receiver and faithfully account for all the property of the said Alabama

and Chattanooga Railroad Company that may come to his possession as such receiver, then this bond shall be null and void; otherwise to remain in full force and effect.

(S'gn'd)	JOHN H. GINDRAT.	[SEAL.]
"	G. S. LESSER.	[SEAL.]
"	A. WOLFF.	[SEAL.]
"	W. W. SHEARER.	[SEAL.]
"	C. H. WILLIAMS.	[SEAL.]
"	W. C. McDORGAL.	[SEAL.]
"	J. M. ROBERTS.	[SEAL.]
"	W. F. BROWN.	[SEAL.]
"	W. C. FORD.	[SEAL.]

UNITED STATES OF AMERICA,
Southern District of Mississippi:

I, J. P. Allen, United States commissioner at Meridian, approve the foregoing bond and the sureties thereto.

This 8th day of August, 1871.

(S'gn'd) J. P. ALLEN,
U. S. Commissioner at Meridian.

(Endorsed:)
Filed Aug. 10th, 1871.
(S'gn'd) G. T. SWAN, *Clk.*

139 In the circuit court of the United States for the southern district of Mississippi, January special term, A. D. 1872, (March 12th, 1872.)

THE STATE OF ALABAMA
vs.
THE ALABAMA AND CHATTANOOGA R. R. COMPANY et als. } In equity.

For good cause shown, it is ordered, adjudged, and decreed that John H. Gindrat, esqr. be removed from his office of receiver, &c., of the Alabama and Chattanooga Railroad Company within the State of Mississippi, and that Charles Walsh, esq., of Mobile, Ala., be appointed receiver, &c., in the room and stead of said John H. Gindrat, with all the power given to said Gindrat by the order appointing him, and with all the power of receivers in like cases, and with the powers given to said Walsh, as receiver, &c., of said Ala. and Chattanooga Railroad Company, in the State of Alabama, by the chancellor of the western division of said State, and it is hereby ordered that said John H. Gindrat, receiver, &c., do immediately turn over to Charles Walsh,
140 receiver hereby appointed, the custody and control of the railroad and rolling-stock and other property of said company within the State of Mississippi, on said Walsh's giving his receipt therefor, or to his authorized agent, L. J. Flemming, esqr. And it is further ordered that said Charles Walsh shall, before entering upon the discharge of his duties as such receiver, enter into bond to the clerk of this court in the sum of fifty thousand dollars, with Abram Murdock and another as his sureties, conditioned for the faithful performance of his duties as receiver, &c.

This March 12th, 1872.
(S'gn'd) R. A. HILL, *Judge.*

Receiver's bond.

In the circuit court of the United States for the southern district of Mississippi.

THE STATE OF ALABAMA
vs.
THE ALA. & CHATTANOOGA RAILROAD ET ALS. } On bill, &c.

Know all men by these presents that we, Charles Walsh, Abraham Murdock, and , are held and firmly bound unto George T. Swan, esqr., clerk of said court, and to his successor in office, in the sum of fifty thousand dollars, to be paid to said Swan, clerk, &c., or
141 to his successor in office; to which payment we bind ourselves, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals and dated this 14th day of March, A. D. 1872.

The condition of the above obligation is such that, whereas the above-bounden Charles Walsh has by a decree of said court, made on the 12th day of March instant, been appointed receiver, &c., of the Alabama and Chattanooga Railroad Company, within the State of Mississippi: Now, therefore, if the said Charles Walsh shall well and faithfully perform his duties as such receiver, then the above obligation to be void; otherwise to remain in full force and virtue.

(S'gn'd) CHARLES WALSH. [SEAL.]
" ABRM. MURDOCK. [SEAL.]
" JOHN J. WALKER. [SEAL.]

Sealed and delivered in presence of—
WM. M. BULL,
L. D. BEROUJM.

Filed March 16th, 1872.

GEO. T. SWAN, *Clk.*

And afterwards, to wit, at the May term, A. D. 1872, of said circuit court, on the 22nd day of May, A. D. 1872, being a day in said
142 term, the following was made and entered in said cause, to wit:

THE STATE OF ALABAMA
vs.
THE ALA. & CHATTANOOGA R. R. COMPANY et als. } In equity.

On motion of the solicitors for complainants herein, it is ordered by the court that Charles Walsh, receiver heretofore appointed herein, do forthwith deliver into possession of John H. Gindrat, Samuel B. Jones, and John F. Bailey, assignees in bankruptcy of the estate and effects of the Alabama and Chattanooga Railroad Company, a bankrupt, the railroad of said company, with all its fixtures, depots, cars, rolling-stock, and all other property of said company within the limits of the State of Mississippi, on service upon him of a copy of this order; and upon default thereof, that a writ of assistance be issued by the clerk, upon the application of said assignees, directed to the marshal of the southern district of Mississippi.

Ordered this 22nd day of May, A. D. 1872.

(S'gn'd) R. A. HILL, *Judge.*

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss:

143 I, George T. Swan, clerk of the circuit court of the United States for said district, hereby certify that the foregoing and annexed seventeen pages contain a full and true copy of the original bill, and of all orders heretofore made thereon, together with the receiver's bonds filed thereon, as the same now remain on the files and of record in said circuit court, in the cause therein stated, in equity, wherein the State of Alabama is complainant and the Alabama and Chattanooga Railroad Company is defendant, No. 145, n. s., in equity.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at office in Jackson, on this 3rd day of June, A. D. 1872.

(S'gn'd) GEO. T. SWANN, *Clerk.*

Filed May 30th, 1872.

(S'gn'd) N. W. TRIMBLE, *Clerk.*

144 EXHIBIT THREE.

Copy of proceedings in superior court, Dade County, Georgia.

Appointment and bond of Wofford, as receiver.

GEORGIA, *Dade County:*

To the honorable Josiah R. Parrott, judge of the superior court of said county, and entertaining jurisdiction in chancery therein:

The State of Alabama, complaining, showeth unto your honor that the general assembly of said State passed an act entitled "An act to establish a system of internal improvement in the State of Alabama," which was approved on 19th January, 1867, and an act entitled "An act to amend the law to establish a system of internal improvements in the State of Alabama," which was approved 22 of September, 1868, & embraced the conditions upon which said State proposed to aid the construction of railroads within its limits; that the Wills Valley Railroad corporation, established by the general assembly of said State of Alabama many
145 years prior to the 6th day of October, 1868, and that the Northeast & Southwest Alabama Railroad Company was also a corporation created by the same authority many years prior to 6th October, 1868; that the general assembly of said State authorized the consolidation of the said two last-mentioned corporations, under the name of The Alabama and Chattanooga Railroad Company, and extended to said company the benefits of the acts hereinbefore refer'ed to authorizing an endorsement by the State of the bonds of railroad companies, by an act entitled an act to authorize the consolidation of the Northeast and Southwest Alabama Railroad Company with the Wills Valley Railroad Company, and to provide for the organization of the corporation formed by such consolidation, and to give it the benefit of said State endorsement of its bonds, and to regulate the said consolidation, which was approved on 6th day of October, 1868, under which act the two corporations therein named did contract together for their consolidation and amalgamation, but on terms which are unknown to your orator; that the general
146 assembly of said State enacted another act entitled "An act relating to the Wills Valley Railroad Company and the Northeast and Southwest Alabama Railroad Company," which was approved on 17th Novem-

ber, 1868, under which the said Wills Valley Railroad Co. was authorized and empowered to purchase, at a sale of the said Northeast and Southwest Alabama Railroad, under a mortgage of said road to the State of Alabama, all the property, real and personal, rights, franchises, fixtures, privileges, and easements of the said Northeast and Southwest Alabama Railroad Co., which said several acts of the general assembly of the State of Alabama, marked in the order in which they are referred to respectively, Exhibit A, Exhibit B, Exhibit C & Exhibit D, and duly authenticated under the law of Congress in such case made and provided, are hereto attached; and your orator prays that the same may be taken and considered as a part of this bill, with leave of reference thereto as often as may be necessary. Your orator further shows unto your honor that the said Wills Valley Railroad Company, under the said act of 17th November, 1868, did purchase all the property, rights,
147 and franchises of the said Northeast and Southwest Alabama Railroad Co., and did, in pursuance of the law authorizing it, change its name to the Alabama and Chattanooga Railroad Company, and duly organize as such by an election of a president and a board of directors.

Your orator further shows unto your honor that the said Alabama and Chattanooga Railroad Company proposing to secure the endorsement of its first-mortgage bonds by the State of Alabama, as authorized by the acts hereinbefore referred to, and especially by the acts of 19th February, 1868, & 22 September, 1868, did issue four thousand seven hundred and twenty (4,720) of its bonds, each for one thousand dollars, dated on 1st day of January, 1869, with interest-coupons attached, a copy of one of which said bonds is hereto attached, marked "Exhibit E;" that the said bonds were issued after the execution of a trust-deed and mortgage by the said Alabama & Chattanooga Railroad Company to secure their payment and to protect the State of Alabama in its endorsement of the same, which trust-deed was executed on 19th day of December, 1868, all of which will more fully appear by
148 reference to a copy of said deed hereto attached and marked "Exhibit F," which your orator prays may be taken and considered as a part of the bill, which trust-deed was executed under the authority and in accordance with the instructions of the board of directors of the said Alabama and Chattanooga Railroad Company, as expressed in a series of resolutions of said board, adopted on 2 day of December, 1868, and embodied in said deed of trust, and, after its execution, was duly recorded in all the counties of Georgia, Tennessee, Alabama, and Mississippi, through which the railway of said co. extends, including the county of Dade, in the State of Georgia, as will appear by the certificate of record of the d. clerk of the superior court of said county of Dade attached to said Exhibit F.

Your orator further shows that the said bonds were duly endorsed by the then governor of the State of Alabama and delivered to the said Alabama and Chattanooga Railroad Company.

Your orator further shows unto your honor that the said State of Alabama afterwards, to wit, on the 11 day of February, 1870, passed an act entitled "An act to loan the credit of the State of Alabama to
149 the Alabama and Chattanooga Railroad for the purpose of expediting the construction of the railroad of said company within the State of Alabama," under provisions of which the governor of said State was authorized and required to issue the bonds of said State, bearing eight per cent. interest, to a sum not exceeding two millions of dollars, to said Alabama and Chattanooga Railroad Company, upon

certain conditions and provisions, the principal of which were that the said company should deposit, in exchange for said bonds, an equal amount of its first-mortgage bonds, bearing the same rate of interest, and secondly, a first mortgage on the lands granted by the United States to the said railroad company, and on its telegraph-line and offices and machine-shop and coal-mines and iron or other mineral and iron-manufacturing establishments, and all other property of said company in the State' of Alabama, Mississippi, Tennessee, and Georgia, and that the directors, officers, incorporators, and stockholders of said company should be personally liable to the State of Alabama for any loss incurred by it if they should knowingly violate or permit the vio-
150 lation of any of the provisions of said act or of the acts under which its bonds were endorsed by said State as aforesaid.

Your orator further shows unto your honor that under the last-recited act two millions of bonds of the State of Alabama, such as are described in said act, were issued and delivered to said Alabama and Chattanooga Railroad Co., and the mortgage in pursuance of said act was executed by said company to said State of Alabama and duly recorded in the counties through which the road passes, including Dade County, Georgia, all of which will more fully appear from a copy of said act of 11th February, 1870, duly authenticated, under the law of Congress in such case made and provided, and hereto attached, marked "Exhibit G," and a copy of said mortgage, hereto attached, marked "Exhibit H," which your orator prays may be taken and considered as a part of this bill, with the usual leave of reference thereto.

Your orator further shows unto your honor that under the legislation of its general assembly above referred to it had, and still has, a clean, unincumbered lien, superior in dignity and prior all other, upon
151 all the property of the Alabama and Chattanooga Railroad Company, in all the States in which its road is constructed and extends, which lien is recognized and protected by the said company in the said first mortgage and trust-deed, beside its mortgage lien under the mortgage last-above referred to.

Your orator further shows unto your honor that the said Wills Valley Railroad Company was chartered by an act of the general assembly of the State of Georgia many years ago, and that it merged into the Alabama and Chattanooga Railroad Co., and the priority of lien of your orators upon the property of said company as hereinbefore asserted has been recognized by the general assembly of the State of Georgia in an act entitled "An act to extend the aid of the State of Georgia to the Alabama and Chattanooga Railroad Co.," approved March 20th, 1869.

Further complaining, your orator showeth unto your honor that the said Alabama and Chattanooga Railroad Co. has flagrantly violated the provisions of the several contracts with the State of Alabama, by which it has secured the bonds of said State, and the indorsement, by
152 said State, of its own bonds. In this connection your orator charges that the whole corporate action of said Alabama and Chattanooga Railroad Co. has been irregular, and usually informed that its directors reside beyond the limits of the States through which its road runs; that no proper publicity has been given to their meetings, or to their election; that the public only know Dan. N. Stanton and John C. Stanton in the management of its affairs, the former as president and the latter as gen'l supt.

That the money raised from the sale of the bonds endorsed and loaned by the State of Alabama has been fraudulently misapplied and used in the purchase of property for the private benefit of the said D. N. and

J. C. Stanton and their associates; that said moneys have been recklessly, extravagantly, and illegally employed in a variety of ways for illegitimate purposes, entirely foreign to the purpose which general assembly of the State of Alabama had in view in extending aid to said company; that a portion of said moneys have been used in the purchase of property which said co. was not authorized to hold, and the title thereto taken in the name of individual members of the company; that the
153 said company has created an immense funded and floating debt, which exceeds by millions of dollars the cost of its construction & equipment under proper management; that the said co. has improperly and illegally secured the indorsement of its bonds by the State of Alabama to the amount of five hundred thousand dollars in excess of the amount authorized by the laws of said State, and appropriated said bonds or their proceeds in different ways unknown to your orator; that it has failed to pay the interest on the bonds endorsed and loaned to it by the State of Alabama, in consequence of which your orator has been compelled to pay the interest of two millions of dollars of the bonds loaned, besides one hundred and sixty-eight thousand and eighty-eight dollars of interest on its endorsed bonds, which became due on first day of January, 1871, and one hundred and ninety-four thousand and one hundred and eighty-nine dollars of interest on same bonds which became due on the first day of July, 1871, making, in all, the sum of $548,474.23 of interest paid by the State of Alabama, and has been rendered liable for the entire principal and interest of the bonds
154 of said co. endorsed by it, as will be seen by reference to the copy of first mortgage and trust-deed hereto appended; that the said Alabama and Chattanooga Railroad Co. is utterly insolvent; that the running of its cars has been stopped by its inability to pay its laborers employed and other creditors; that J. C. Stanton, genl. supt., has abandoned it and gone to distant and unknown parts; that D. N. Stanton, the president of said co., is a non-resident, and that the said J. C. Stanton is a non-resident, and that the road of said co. is constructed in the States of Tennessee, Georgia, Alabama, & Mississippi; that its property in all these States has been left in the control of subordinates, many of whom have been irresponsible; that, so left, it has been wasted, abused, and seized by attachments and by every other legal process known to the laws of said several States; that immense loss has already occurred from these causes, and heavy additional loss will occur unless it is prevented by the intervention of this honorable court; that the gov. of Alabama has, under authority given him by the laws of the State, (hereinbefore referred to,) taken possession of the road of said company and
155 placed it in the possession and control of John H. Gindrat as receiver; that the said receiver is operating said road in the States of Alabama and Mississippi; that for various reasons said road cannot be operated by said receiver in Georgia and Tennessee; that the income of said road as operated is inadequate even to pay its working-expenses; that the debt of the State of Alabama against said co. is more than seven millions of dollars, and must be considerably increased; that even if she secures the security pledged her by said co. she must lose heavily; that a part of her security, to wit, the road of said co., with its offices and fixtures, with the offices and fixtures of its telegraph-line, and a large amount of its rolling-stock, wood, cross-ties, &c., &c., is in the said State of Georgia and county of Dade, and that the said property, or a large portion of it, has been levied on by attachments and judgments founded upon the foreclosure of liens for labor and material, and now advertized for sale; that the said property is rapidly deteriorating in value, and

will be sacrificed if sold under the present complications, and thus serious and irremediable injury will be suffered by your orator. That
156 the said creditors who have foreclosed liens for labor and material in said county of Dade are Noble & Bros., the Rome Iron Manufacturing Co., Jas. C. Nisbet, Tandy McGlohon, Geo. Houstoun, Martin Reed, and Richard Thomasson, all of whom, except Noble & Bros., James C. Nisbet, and Geo. Houston, the first of whom reside in Floyd and the other two last in Dade Co., Georgia, are non-residents of the State of Georgia. That the other creditors suing in said county of Dade are James A. Case, Uriah Castleberry, Saml. Sitton, J. B. Wilkinson, Elisha Majors, F. M. Street, R. A. Morgan, Thos. Blanchard, W. L. Driscol, A. L. Howard, Demibrius Hargus, C. C. R. Taylor, H. C. Gross, B. P. Majors, J. A. Ansley, M. Nicholas, Rufus Hargus, K. H. Davis, Smith & Cureton, E. D. Graham, Pace & Allison, Rogers & Co., T. J. Morgan, H. G. Wilson, who your orator is informed are citizens of the county of Dade; and D. A. Walker, David Crawford, Moses Johnson, Geo. W. Thompson, Peter Bogue, B. H. Brown, W. J. Hammett, Wm. T. Dickert, Geo. W. Bruce, Wiri Garr, Elias Marshal, F. A. James, J. B. Harriss, B. F. Gardner, W. M. Kilpatrick, J. P. Bond, Saml. Wilkinson, Lowerey & Nail, W. C. Millerd, B. M. & T. R. Jaconay, T. J. Allison, Thomas R. Jaconay, Martin White, Graham & Anderson, T. J. Scott, J. J. Rutherford, John L. Divine, Davenport & Long, Robt.
157 Cravath, Pierce & Bradford, W. A. McCorkle, A. Tschopick, Watkins & Divine, Divine & Goodwin, J. L. McCollum, Emery Liverly, C. O. Whitney, Andrew Frazier, J. N. Metcalf, Taylor Lyons, Wm. J. Brown, J. F. Haygood, J. C. Haygood, and H. R. Allen, whose residences are unknown to your orator.

In consideration whereof, and forasmuch as your orator is entirely remedyless in the premises according to the strict rules of the common law and can only have relief in a court of equity, where matters of this nature are properly cognizable and relievable; to the end, therefore, that the said Alabama and Chattanooga Railroad Company and the said Dan. N. Stanton and John C. Stanton may, upon their several corporate oaths, or the oaths of the proper officers of said company, full, true, direct, and perfect answers make to all and singular *to* the matters hereinbefore stated and charged, and more especially that they may answer and set forth—

1st. Whether the contracts of said company with the State of Alabama are as herein set forth?

2nd. What amount of bonds loaned or endorsed by Alabama have been received by said Alabama and Chattanooga Railroad Com-
158 pany, and what has been done with each of said bonds; by whom sold; at what rate; by whom purchased, and what application has been made of the proceeds?

3rd. Whether default has been made in payment of interest on said bonds; and, if so, when and to what extent, and how much of said interest has been paid by Alabama?

4th. What is the amount of said company's indebtedness to Alabama, and what is the character of that indebtedness?

5th. What property is owned by D. N. Stanton or J. C. Stanton in their own names or in the names of others for them in the States of Georgia, Tennessee, Alabama, and Mississippi; when purchased, and how paid for.

6th. What is the indebtedness of said company to D. N. or J. C. Stanton, and how created?

7th. What is the indebtedness of said road and the liens upon it? What is the cost of said road, and how much will it take to finish it? And that the said Alabama and Chattanooga Railroad Company and the said D. N. Stanton and J. C. Stanton come to a fair and just account with your orator.

And that any and all property of the said D. N. & J. C. Stanton may be decreed to be sold in settlement of the debt of your orator,
159 and that the property of said company may be decreed to belong to your orator, and if necessary be sold to satisfy its debts.

And that a receiver may be appointed to take charge of the property of said company and administer it under the order of this court, and that an injunction be issued restraining the suits of the several creditors hereinbefore named, and restraining the transfer or removal of any property by the said company or by the said D. N. or J. C. Stanton.

And that the said creditors, by proper order, may be made parties to this bill, and that your orator may have *with* other and further relief in the premises as the nature of his case may require, or your honor may seem meet.

May it please your honor to grant unto your orator not only the State's most gracious writs of injunction, directed to the said Alabama and Chattanooga Railroad Co. and the said D. N. Stanton and J. C. Stanton and to the said creditors hereinbefore prayed, but also the State writ of subpœna directed to the said Alabama and Chattanooga Railroad Co., the said D. N. & J. C. Stanton, and the said creditors hereinbefore named, requiring them to be and appear at the next superior
160 court of Dade County, to stand to and abide and perform any further order or decree that may be made by your honor in the premises. And your orator will ever pray, &c.

NISBET & JACOBSON,
Sols. for the State of Ala.

STATE OF TENNESSEE,
Hamilton County:

Before me, in person, came Robt. B. Lindsay, who, being duly sworn, deposes and says that the facts stated in the foregoing bill are true, of his own knowledge, except those stated on information and belief, and that he believes those so stated to be true as stated; and that he has learned the facts which are charged in said bill as the governor of the State of Alabama.

R. B. LINDSAY,
Gov. of the State of Alabama.

Sworn to and subscribed before me this 1st Sept., 1871.

JNO. P. LONG,
Com. of Deeds for Georgia.

CHAMBERS, CARTERSVILLE, GEORGIA,
Sept. 2, 1871.

Read and considered. It is ordered by the court that defend-
161 ants show cause before the undersigned by ten o'clock a. m., at the court-house in Cartersville, Ga., on Tuesday the 18th inst., why injunction shall not issue and receivers be appointed according to the prayer of the bill, and that defendants be served with a copy of this bill ten days before said hearing, and that temporary injunction issue and remain in force until said hearing.

J. R. PARROTT,
J. S. C. C. C.

CHAMBERS, CARTERSVILLE, GA.,
Sept. 20th, 1871.

THE STATE OF ALABAMA
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Co., Jas. A. Case, Uriah Castleberry, et als.

Bill for injunction, appointment of receiver, &c., in Dade superior court, State of Georgia.

After hearing argument of the counsel and considering the answer submitted in said case, it is ordered by the court that the State's writ of injunction shall issue in accordance with the prayer of com-
162 plainants' bill, but that said injunction shall not restrain or interfere with the sale of said railroad by the governor of Georgia, according to the laws of said State.

It is further ordered by the court that William T. Wofford, of the county of Bartow, in this State, be and he is hereby appointed receiver in said case to take charge of and preserve and protect the property of said Alabama and Chattanooga Railroad Company in accordance with the laws of this State applicable to said case.

It is further ordered by the court that said receiver shall, before taking charge of said property and entering upon the discharge of his duties as such, give bond with good security in the sum of fifty thousand dollars ($50,000) for the faithful performance of the duties devolving upon him according to the orders of this court and the laws of this State governing this case, which bond shall be approved by this court.

It is further ordered by this court that such other and further proceedings be had in said case as are usual in equity.

163 Given under my hand and official signature.

J. R. PARROTT,
J. S. C. C.

THE STATE OF ALABAMA
vs.
THE A. & C. R. R. Co., JAS. A. CASE, URIAH Castleberry, et al.

The receiver appointed in the above case, so soon as he is qualified as required by the order of appointment, is directed to take into custody and safe-keeping that portion of the Alabama and Chattanooga Railroad situated in the State of Georgia, and all the property of the Alabama & Chattanooga Railroad Company now in said State of Georgia, of every kind and description whatever.

And it is further ordered that said receiver negotiate with the parties in charge of and controlling other parts of said Alabama and Chattanooga Railroad situated in other States, for the running of said road through its entire length from Meridian to Chattanooga, under the direction and supervision of the court.

J. R. PARROTT,
J. S. C. C. C.

164 THE STATE OF ALABAMA
vs.
THE A. & C. R. R. Co., JAS. A. CASE, ET AL.

In equity. Dade superior court. Case heard at chambers.

The order for injunction in this case is on terms, that the complainant, before the injunction issues or operates, shall enter into bond, with good

and sufficient security, in the sum of fifty thousand dollars, as is required by the laws of this State in case of injunction, the bond to be approved by this court.

J. R. PARROTT,
J. S. C. C. C.

SEPT. 21ST, 1871.

GEORGIA, *Bartow County:*

Know all men by these presents that we, William T. Wofford, principal; Abda Johnson, N. Gilbett, H. F. Price, Geo. W. Wofford, E. D. Puckett, A. R. Hudgins, J. H. Satterfield, and Thomas Trunlin, securities, are held and firmly bound unto the judge of the superior court of the Cherokee circuit, for the benefit of the parties in the matter
165 of litigation and the property involved in said suit, in the sum of fifty thousand, for the true payment of which we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals and dated this Sept. 21st, 1871.

The condition of the above obligation, that whereas the said Wm. T. Wofford has been appointed by the judge of the superior court of the Cherokee circuit receiver in the case above stated: Now, if the said William T. Wofford shall well and faithfully discharge the trust reposed, then this obligation to remain in full force.

WILLIAM T. WOFFORD. [SEAL.]
ABDA JOHNSON.
N. GILREATT. [SEAL.]
H. F. PRICE. [SEAL.]
JNO. W. WOFFORD. [SEAL.]
A. R. HUDGINS. [SEAL.]
S. H. SATTERFIELD. [SEAL.]
THOMAS TRUNLIN. [SEAL.]

CHAMBERS, CARTER'VILLE, GEO.,
September 21st, 1871.

The above and foregoing bond examined and approved.
166 Given under my hand and official signature.

J. R. PARROTT,
J. S. C. C. C.

I certify that the above is a true copy of the bill, orders, and bond in the case of The State of Alabama *vs.* The Alabama and Chattanooga Railroad Company.

Given under my hand and seal of office this 31st May, 1872.

[SEAL.] M. A. B. TATUM,
Clerk.

Filed May 30th, 1872.

N. W. TRIMBLE,
Clerk U. S. Circuit Court, Southern District of Alabama.

167 EXHIBIT 4.

To the honorable D. M. Key, chancellor, &c., sitting in chancery at Chattanooga, Hamilton County, Tennessee.

The State of Alabama, complaining, sheweth unto your honor that the Alabama & Chattanooga Railroad Company is a body politic and

corporate, duly organized in pursuance of law, and having a legal chartered existence in the States of Tennessee, Georgia, Alabama, and Mississippi, with its principal office or place of business in Chattanooga, Tennessee. It was created for the purpose of building a railroad from Chattanooga, Tennessee, through Georgia, Alabama, to Meridian, Mississippi, with ample powers to accomplish the object of its creation. The enterprise thus committed to its care and construction was believed to be one of general public utility, and especially so to the people of Alabama. The means of the company were not adequate to its completion, and it applied through its authorized officers and agents to the general assembly of Alabama for aid. Its call for help was cordially entertained and generally responded to. Every privilege asked for to facilitate its operations and advance its interests was punctually
168 granted, under statutes regularly and constitutionally enacted by said general assembly, which will be read in evidence on the hearing of this cause. The governor of Alabama was authorized and directed, upon the execution of a mortgage hereinafter more fully stated, to indorse the bonds of said Alabama and Chattanooga Railroad Company to the extent of sixteen thousand dollars per mile of said company's road. Under their enactments the Alabama & Chattanooga Railroad Co. was only entitled to an indorsement of her bonds to the amount of four millions seven hundred and twenty thousand dollars. The aid thus tendered by the State of Alabama was accepted by the Alabama & Chattanooga Railroad Company, which prepared and executed its bonds for one thousand dollars each to the extent authorized by law, to wit, to the amount of four millions seven hundred and twenty thousand dollars, to mature the first day of January, 1889, with coupons attached and bearing interest at the rate of 8 per cent. per annum, payable on the first day of January & July in each and every year, as will appear from a copy of said bonds attached to and made a part of this bill as Exhibit A. The said Alabama & Chattanooga Railroad
169 Co. further, in compliance with the statutes aforesaid, under and in virtue of which the State of Alabama understood and contracted to endorse its bonds, executed a deed in trust, bearing date the 19th December, 1869, to Seth Adams, Francis Dane, and John Demerett, citizens and residents of the commonwealth of Massachusetts, to secure the payments of the semi-annual interest as the same accrued, and the principle of said bonds, and to indemnify and protect the State of Alabama against loss by reason of her indorsement of the same. This deed in trust was duly and regularly acknowledged and authenticated for registration, and the same was duly registered in the several counties through which said Alabama & Chattanooga Railroad passes in the several States hereinbefore named, and a copy thereof, certified by the register of Hamilton County, Tennessee, is attached to and made a part of this bill as Exhibit B. Upon the performance of the foregoing conditions precedent, required by the statutes aforesaid, the governor, for and in behalf of Alabama and at the special instance and request of said
170 Alabama & Chattanooga Railroad Company, endorsed the bonds so prepared and secured by said company to the amount aforesaid, to wit, to the amount of four millions seven hundred and twenty thousand dollars, and redelivered the same to said company to be sold, for the purpose of procuring funds with which to build their said road, and the complainant has been informed and believes, and upon their information and belief charges, that said bonds were so sold to other parties, by whom they are now held.

Complainant further charges that, by force of said several statutes and

the deed in trust to Messrs. Adams, Dane, and Demeritt, she is entitled to a good and valid legal or equitable lien on said company's road, now complete from Chattanooga to Meridian, and upon the capital stock subscribed in said company, right of way, grading, bridges, masonry, iron rails, spikes, chairs, and upon all its superstructure and equipments, and all its depots and depot-buildings, and on all property owned by it and incident to or necessary for carrying on its business, to protect and indemnify complainant against the payment of the principle and interest of said company's bonds so indorsed by com-
171 plainant for said company's benefit.

Further complaining, your orator shows that on the same day, to wit, on the 19th day of December, 1869, but after the execution of the deed in trust hereinbefore mentioned and made a part of the bill as Exhibit B, the Alabama & Chattanooga Railroad Company executed another deed in trust to Samuel A. Carlton, Lewis Rice, and Robert Treat Pain, jr., citizens and residents of Massachusetts, a copy of which is attached to this bill as Exhibit C, and made a part of the same. This deed was also, after its execution, duly acknowledged and authenticated for registration, and upon which it was registered in all the counties through which said Alabama and Chattanooga Railroad passes, in the several States of Tennessee, Georgia, Alabama, and Mississippi. In accordance with the recitations and provisions of the last-named deed in trust, the Alabama and Chattanooga Railroad Company executed its own coupon-bonds, amounting in the aggregate to two millions of dollars. It is believed, and *and* on this belief admitted, that a portion of the bonds so issued by said company and intended to be secured by this last-named deed in trust, have
172 been sold for value to bonafide purchasers, but how many have been thus sold complainant does not know and cannot ascertain. But upon information, complainant believes, and on this belief charges, that a large proportion of them have not been in good faith sold by said company, but that the same are held by the officers of said Alabama and Chattanooga Railroad Company to be by them fraudulently presented as their personal and individual property, a debt against said company, to be paid, under the terms of said second deed in trust, out of the assets of the company in the adjustment of its liabilities to be made by this honorable court in this case. Against this contemplated fraud and imposition the complainant, for herself and in behalf of other creditors, prays to be protected. Further complaining, your orator shows that the general assembly of Alabama, by an act entitled "An act to loan the credit of the State of Alabama to the Alabama & Chattanooga Railroad Company for the purpose of expediting the construction of the railroad of said company within the State of Alabama," approved 11th February, 1870,
173 authorized and directed the governor of said State to issue to said company the bonds of said State to an amount not exceeding two millions of dollars, bearing interest at a rate not greater than 8 per cent. per annum, to be paid semi-annually in currency or in coin, upon receiving in exchange therefor and equal amount of first-mortgage bonds of said railroad company, bearing the same rate of interest as the bonds of the State to be issued to the company, and to be secured by a first mortgage on the lands granted by the United States to said railroad company, and on any interest which said company there had or might thereafter acquire from said lands, and on the telegraph-line and offices, and on the machine-shops, and all other property belonging to said company in the State of Tennessee, Georgia, Alabama, and Mississippi, as is more fully and at large recited in said act, which

will be produced and read as evidence on the hearing of this case. In pursuance of the provision of said act the governor of Alabama did give and deliver to *to* said Alabama and Chattanooga Railroad
174 Company two millions of the bonds of the State of Alabama, with coupons, in the form and payable at the time and with the rate of interest shown by a copy of said bonds hereto attached and made a part of this bill, marked "D." To indemnify complainant and secure the payment of said bonds so issued for the benefit of and delivered by the governor of Alabama to said company, said company executed and delivered its bonds to the governor of Alabama in accordance with the requirements of said act, and also a deed of mortgage, a copy of which is attached and made a part of this bill, marked "E." This last-named deed of mortgage was also duly acknowledged, authenticated, and registered in all the counties and in the several States through which said company's road passes. On or about the 4th of May, 1871, Robert Treat Pain and Samuel A. Carlton, two of the trustees named in the aforesaid second deed in trust, assumed to resign their said *said* trust, and united with Louis Rice, their cotrustee, and by deed conveyed all the property vested in them by said trust-
175 deed to the said Louis Rice, Daniel N. Stanton, and Andrew C. Lippett, as will more fully appear from a copy of said deed attached and made a part of this bill, marked "F." Your orator has not been able to ascertain the names of all the stockholders in or the directors, officers, and agents of the Alabama and Chattanooga Railroad Company, but he is able to state that Daniel N. Stanton and J. C. Stanton, both of Massachusetts, have been acting as directors and officers of said company since about the time or soon after its organization. Complainant has understood, and upon this information charges, that they with others had subscribed a large amount, about two million and a half of dollars, to the capital stock of said company, which has never been paid. Complainant further charges, on information and belief, that as officers of said company they have colluded with their associates and confederates and appropriated a large amount of the bonds issued by said company and the bonds issued or endorsed by the State of Alabama as aforesaid on the proceeds realized there from the sales made of said
176 bonds to their own use. That said misappropriation was deliberately done in disregard of the high trust confided to them as officers of company and in fraud of the rights of your complainant and other creditors in various ways and on many occassion'. That among other frauds of this character, on or about the 11th day of January, 1870, J. C. Stanton contracted to purchase about eighty-five acres of land in the city of Chattanooga, from James P. Boyce as executor of Kerr Boyce, deceased, of South Carolina, bounded and described as follows: "A tract of land containing eighty-four and eight-tenths of an acre, more or less, and bounded on the south by a sectional line upon which Montgomery avenue is located; on the east by the land belonging to the estate of Dr. Tomlinson Fort, dec'd; on the north by the right of way of the Western and Atlantic Railroad, the lands of the Nashville & Chattanooga Railroad Company, and the five-acres' lot bound by T. R. Wornacut; and on the west by the right of way of the Nashville & Chattanooga Railroad Company, as it will more fully ap-
177 pear by a copy of the contract in writing executed by the parties, hereto attached as a part of this bill, marked "G," as it will be seen by reference to the copy of said contract. The said J. C. Stanton undertook and obliged himself to pay two thousand dollars per acre for said land, the quantity to be ascertained by actual measurement, of

which he paid in cash twenty thousand dollars at the time of his purchase. He has since paid, as complainant understands and charges, twenty thousand dollars more of said purchase-money. Boyce on his part covenanted, upon the receipt of the purchase-money, to convey to Stanton the title to said land with covenant of seazin and warrantry. Since said contract the said J. C. Stanton has erected a large hotel and other valuable improvements on said land, and purchased a large and valuable lot of furniture and other fixtures with which to fit and furnish said hotel, for all which, including freight on his furniture and fixtures, and the forty thousand dollars of the purchase-money paid toward said land was paid, as complainant is informed and believes,
178 with money which belongs to the Alabama and Chattanooga Railroad Company. Complainant further believes, and on this belief charges, that the said D. N. Stanton and J. C. Stanton have purchased other property with the funds of said company, and taken title to themselves, but has been unable as yet to trace, locate, and identify it. They have expended large sums of the company money in building depot and other buildings on the lands bought as aforesaid from Boyce, *au*stensibly for the Alabama & Chattanooga Railroad Company, without having made, so far as complainant can ascertain, any provision to secure the title thereof to the company. They claim to have expended other large sums belonging to said company with legislators and other officials, agents—all favorites—for illegal and corrupt purposes. If the'r declarations are true, it is a gross abuse of their trust, and if not true, then they have retained said funds to themselves, and resorted to said declarations as a cover to their appropriation of it to themselves; and in either
179 contingency complainant has the right to demand and have a decree for its repayment to the company, to the end that the same may be by the decree of this court applied to the liquidation of complainants' demands, for all of which complainant pray'. Complainant is informed, and on this information charges, that the said D. N. & J. C. Stanton, by some means not understood by complainant, fraudulently obtained from the late governor of Alabama an endorsement of five hundred thousand dollars of the bonds of the Alabama and Chattanooga Railroad Company, in addition to the four million seven hundred and twenty thousand dollars hereinbefore mentioned, and in excess of the amount authorized by law. What disposition has been made of these bonds, where they are, or by whom or for what consideration held, complainant does not know nor cannot now ascertain, but charges that the issuance and endorsement of these bonds was without authority, and a fraud on complainant, for the payment of which she is neither
180 morally or legally liable; and she pray' a declaration of this fact by this honorable court for a decree protecting her against an enforced payment of the same. But if this honorable court should entertain a different opinion, and hold that complainant is liable for said bonds so fraudulently issued, then and in that case complainant will insist that their payment is secured by said 1st deed in trust aforesaid; and she pray' for such decree as will insure to her the benefit thereof. Having thus, by their frauds and peculations and misapplication and conversions of the bonds, money, and effects of said Alabama and Chattanooga Railroad Company, bankrupted said corporation, the said Daniel N. and J. C. Stanton have withdrawn from Tennessee and gone beyond the jurisdiction of this court, and left the road and other real and a part of the personal property of the company in the nominal possession of subordinate agents, but in fact to be preyed upon by rapacious creditors and wasted in fruitless litigation. In this abandoned condition,

181 the road is standing idle and rapidly deteri'ating in value, and the country is deprived of the facilities for tra*vel* and travel which it was intended to provide, while the interest on its bonded debt is rapidly accumulating, to the injury of complainant.

The Alabama & Chattanooga Railroad Company had paid no interest on its said bonded debt since January, 1871, and its officers are now making no efforts and have no means with which to pay the interest hereafter to accrue; and in consequence of its default complainant has been forced to pay the sum of five hundred and forty-eight thousand four hundred and forty-eight dollars & twenty-three cents.

In consequence of the fraudelent management of the affairs of said corporation, and the misappropriation of its effects by the Messrs. Stantons and their operators, as hereinfore charged, the company is hopelessly insolvent, and there are numerous and heavy liabilities existing against it, in favor of a large number of bona-fide creditors, for labor done, and material furnished, and services rendered in the construction of said road. As might be expected under such circumstances,

182 their creditors are struggling with each other for precidence in the collection of their debts. Many of them have sued out attachments, under which portions of the property of the company included within the deeds in trust and mortgages made, as aforesaid, for the protection and indemnity of complainant, has been seized and is being detained.

In accordance with the power and authority vested in the governor of Alabama by the several acts aforesaid, under and in virtue of which the endorsement and issuance of bonds for and to the Alabama & Chattanooga Railroad Company was made, his excellency Robert B. Lindsey recently appointed and commissioned John H. Gindrat a receiver, for and in behalf of the State of Alabama, to take possession of said Alabama and Chattanooga Railroad, and all the other property of said company embraced in said deeds, in trust and mortgage, and to operate and preserve the same for the benefit of complainant, as in and by said deeds and mortgage and the act of the general assembly aforesaid was contemplated and provided. But, because of said attachments

183 and other hindrances, the receiver so appointed has been unable to operate said road successfully, by reason whereof the complainant, as well as the general public, is sustaining every great and irremediable injury; hence, in def/erence to the opinion of her advisors, and to the rights and dignity of a sister State, complainant comes into this honorable court and invokes its power, and asks that relief to which she conceives herself clearly entitled, and which can be best afforded by this honorable court. Your complainant has, perhaps, not been able to obtain a full and accurate list of all the attaching-creditors who have had their attachments levied, and, on this account, may not make them all parties to this suit; but, as far as complainant has been able to ascertain, they are as follows:

R. L. Watkins, M. Armstrong, and N. Page, partners, doing business under the firm-name and style of R. L. Watkins & Co.; T. R. Wornacut and John P. Hodges, partners, under the name and style of T. R. Wornacut & Co.; Henry Kreoger, J. B. Weaver, J. M. Anderson, J. P. Deaver, and W. C. Patton, partners, under the firm-name and style of Weaver, Anderson and Co.; John L. Devine, William T. Goodwin,

184 and R. L. Watkins, who sue as partners under the two firm names of Devine and Goodwin, Watkins and Devine, and in the individual names of John L. Devine, Thomas Webster, Daniel Kaylor, and D. J. Pierce, and T. D. Bradford under the firm name and style of

Pierce & Bradford; L. L. Thomasson, Pearson Kinsey, J. C. Gillespie, J. F. Ruoffard, F. H. Claus, partners under the firm name and style of Gillespie & Co.; William Crutchfield, S. H. Corey, and I. C. Whitney, under the firm name and style of W. Crutchfield & Co.; John C. Gillespie, A. Handman, J. F. Raoff, and H. Claus, partners under the firm name and style of John C. Gillespie & Co.; John B. Weaver, D. A. Walker, J. L. McCollum, R. C. McCalla, J. C. Long, A. R. Edgar, T. J. Peeples, M. J. Bell, Martin Young, by his next friend William Young, and the Vulcan Works, all of Hamilton County, Tennessee; the Western and Atlantic Railroad of Georgia, a corporation having a business in Chattanooga; the said J. C. Stanton, W. L. Davenport and Long, partners under the firm name and style of Davenport & Long; and J. A. Starling, of Alabama, and J. C. Stewart and John A. Hart, part-
185 ners under the firm name of Stewart A. Hart, of Alabama; A. G. Adams, R. G. Thomas, partners under the firm name and style of A. G. Adams & Co.; and J. J. Gest and W. P. Atkinson, partners under the firm name of Jest & Atkinson, of the State of Ohio; which several attaching creditors complainant desires to have made parties defendant to this bill. Not long since, at the instance of some creditors of the Alabama and Chattanooga Railroad Company, a proceeding in bankruptcy was instituted against it in the State of Alabama, in which E. H. Grandin was appointed by the court custodian, pending the litigation and until an assignee should be appointed to succeed him, to take possession of and preserve the property of the company. This order, however, on appeal to the circuit court, was reversed, and proceedings in the bankruptcy dismissed, by which said order appointing said Grandin was vacated and annulled, notwithstanding the said E. H. Grandin is now present in Chattanooga for the purpose, as complainant understands, of claiming and assuming possession of the property of the Alabama Railroad Company as cus-
186 todian thereof under said order, which has been since annulled and vacated; and complainant apprehends and charges that he may attempt to do so, and thereby inflict severe injury on complainant, unless restrained by an injunction of this court. Being remediless in the premises save in this honorable court, complainant prays to have J. C. Stanton, Daniel W. Stanton, Robert Treat Pain, Samuel Carleton, Lewis Rice, Andrew C. Tippett, Seth Adams, Francis Dane, John Demeritt, and James P. Boyce, and E. H. Grandin, all of whom are non-residents of Tennessee, and the Alabama & Chatanooga Railroad Company and all the attaching creditors hereinbefore named, and as other creditors of the Alabama & Chatanooga Railroad Company that may choose to come in and make themselves parties to this bill, be made parties deft. to this bill, by process and by publication, as provided by law, and that they and each and every one of them be required to answer the same in accordance with the law and with the practice
187 of this court. And complainant pray that the said D. W. and J. C. Stanton answer and say who are and have been stockholders in said company; when and how did they become such? Has said stocks or any part of it been paid; if so, how much of it; when and by whom paid; to whom was it paid, and how was the same expended or applied? Have any books been kept by or for said railroad company; if so, who kept them, and where are they? And that they be required to bring the same into court, and file them with the matter for the inspection of all the parties to this suit and all other creditors of the company. That they answer and say how many bonds were issued by said company; how many of them were endorsed by the State of Alabama; how many were

issued to the company by Alabama; when they were so issued and endorsed; what was done with them; when, to whom, and by whom, and at what price were they sold; when the purchase-money for them was received; by whom was it received, and how, and for what purpose was the same applied; and who the same was paid to?
188 And if there are any books in which these accounts were kept let them bring the same into court for the inspection of the parties. That they answer and say whether they or either of them have used or authorized or requested any one else to use any of said company funds for any other purpose than that for which it was provided; if so, who used it, to whom, when, and for what purpose, and how much of it was so used? Have they or either of them used any of the company's funds in the purchase of lands, furniture, or other property for themselves or for either of them, or authorized any one else to so use it for them; if so, how much of it was so used, when and for what purpose was it so used, and where is the property so bought? Let them further answer and say whether they or either of them own any iron, coal, or other lands in Tennessee, Georgia, or Alabama; if so, where is it situated, from whom was it obtained, & how much was paid for it? Let them answer and say how much has been paid towards the purchase-money agreed to be paid for the lands bought of James P. Boyce;
189 how much has been expended in its improvement, and where the money thus used was obtained? Did they or either of them own any property before and at the time they severally became officers and agents of the Alabama & Chattanooga Railroad Company; if so, what was it, where was it, and how much was it worth? Let them set forth and show how much is owing by said Alabama & Chattanooga Railroad Company, to whom it is due, and how it is evidenced, and what is the consideration of said several debts? And upon the coming in of def'ts' answer complainants pray for all necessary accounts, for decrees over against delinquent stockholders for the amount of stock owing by them, for decrees over against the def'ts Daniel W. and J. C. Stanton for all moneys wrongfully applied by them for their own use or for unauthorized and illegal purposes, and for proceeds of bonds sold and not accounted for, and for a decree divesting them of all titles to the lands acquired by them under their purchase from Boyce and vesting it in the Alabama & Chattanooga Railroad Company, and, if necessary, for a decree to sell the same, for the purpose of paying off
190 the balance of the purchase-money due therefor, to the end that complainant may have the surplus applied to the payment of her demands, and for decrees divesting them all titles of lands or other property purchased by them and paid for with the funds of said company and vesting the same in the company for an injunction restraining the aforesaid attaching and all other creditors from selling, removing, or otherwise further interfering with the property of the Alabama & Chattanooga Railroad Company, and conveyed in trust for the benefit of complainant as aforesaid, and for an injunction restraining E. H. Grandin from taking possession of or interfering or removing said property until the further order of this court. And complainant prays for the appointment of a receiver to take possession of said Alabama & Chattanooga Railroad Company's property, including that attached by creditors, with full and adequate powers to retain, manage, use, operate, and preserve the same until the further order of this court; and for all such other further and general relief as the equity of complainant' course shall and may require; and, as in duty bound, complainant ever pray, &c.

191 This is the first application for an injunction and appointment of a receiver in this case.

JNO. BAXTER,
Sol. for Complainant.

TENNESSEE, *Hamilton County:*

James H. Clanton, agent and attorney for complainant, swears that set forth and alleged in the foregoing bill as of compl't's knowledge are true, and those upon information or belief he believes to be true.

Subscribed and sworn to this 31st day of August, 1871.

JAMES H. CLANTON.

Sworn to and subscribed before me this 31st August, 1871.

J. A. CALDWELL, *C. & M.*,
By J. W. CLIFT, *D. C. & M.*

(Endorsed:) Filed 31st Aug., 1871. J. A. Caldwell, C. & M.

James A. Caldwell, clerk & master of the chancery court of Hamilton County, Tennessee, do hereby certify that the foregoing twenty-five pages contain a full, true, and complete transcript of the original bill of the State of Alabama vs. The Ala. & Chattanooga Railroad
192 Company et als., (without the exhibits therein referred to,) as the same remains on file in my office.

Witness my hand and the seal of said court, at office in the city of Chattanooga, Tenn., this 31st May, 1872.

J. A. CALDWELL, *Com.*

Motion at chambers for the appointment of a receiver.

193 STATE OF ALABAMA
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD COMPANY.

Be it remembered that the motion of complainant for the appointment of a receiver in this cause came on and was heard by me after due notice to all the parties at chambers, in Chattanooga, on this the 8th day of September, 1871, and the court being of opinion after hearing arguments of counsel representing every interest concerned in the cause, that it is a proper case for the appointment of a receiver as prayed for, doth hereby appoint John H. Gindrat the receiver of this court in the premises, and to enable said receiver to execute the duties of a receiver as hereinafter set forth and declared it is ordered that the clerk & master, upon the said Gindrat executing to him a receipt therefor, turn over and deliver to said Gindrat as receiver of this court all the rolling stock, machinery and other property of the Alabama & Chattanooga Railroad Company which has been attached by creditors and
194 impounded in this court that may be necessary or useful in operating said railroad as hereinafter directed.

And it is further ordered that said Gindrat, as receiver, proceed as rapidly as the means at his disposal will enable him to do, to operate said road, affording to the public for the transportation of freights and persons, all the facilities he can consistently afford with a due regard to the interests of the parties to this suit, and for this purpose he may use all rolling-stock and other property of the Alabama and Chattanooga Railroad Company hereinbefore ordered to be delivered to him, or which may hereafter lawfully come into his possession, including the telegraph

line belonging to said company. For this purpose he may also employ such laborers, engineers, and other agents necessary and proper to the successful operating of said railroad, and apply so much of the earning & thereof as may be necessary to pay for the repairs of the track and rolling or other stock or property of the company, and all other necessary and proper expenses to be incurred in carrying out the pur-
195 poses of this decree. But it is hereby distinctly declared that the court will in no event make any decree to pay any part of the expenses of operating said road out of the property hereby committed to the receiver, or out of any other property or moneys of the said Alabama & Chattanooga Company, other than the receipts or earnings which may be realized by the receiver for services to be rendered by said road in pursuance of this decree. Said receiver will make a statement to the court at each term thereof, or oftener if required, showing his receipts and disbursements, and the balance of receipts, if any, and liabilities incurred by him and not paid, if any such shall exist. He will be required to keep an account of the business of the whole line of said road; and in case any balance shall remain after paying expenses, as hereinbefore provided, and retaining a reasonable compensation to himself, to be hereafter determined, he shall account to and with this court in proportion to the length which that part of said road laying in Tennessee bears to the whole road. Should any contingency
196 arise demanding action not herein provided for, said receiver will make a brief statement of the facts, apply for further and more definite instructions from the court, and the same will be given.

The bond required of the receiver and voluntarily executed by the governor of Alabama for and in behalf of the State of Alabama, which has been accepted and accompanys this order, will be filed as a part and parcel of this order, and carefully preserved by the master.

It is further ordered that the Alabama and Chattanooga Railroad Company—its officers and agents—immediately deliver all its books and papers to the clerk & master, who will securely keep the same in his office, open to the inspection of the parties to this cause, or their attorneys, until otherwise ordered by the court.

D. M. KEY, [SEAL.]
Chancellor.

(Endorsed:) Filed 8th September, 1871. J. A. Caldwell, C. & M.

197 [Alabama. Figure of an eagle on a shield with device. Great seal.]

EXECUTIVE DEPARTMENT, STATE OF ALABAMA,
Montgomery, , 186 .

The undersigned, John H. Gindrat and the State of Alabama, severally acknowledge themselves to owe and be indebted to James A. Caldwell, clerk and master, and his successors in office, for the use and benefit of the parties hereinafter mentioned or described in the penal sum of three hundred thousand ($300,000) dollars; for the payment of which, on the conditions hereinafter stated, the said Gindrat binds himself and his legal representatives, and the State of Alabama pledges her faith and credit.

But the condition of the above obligations are such, whereas, in a suit instituted by the State of Alabama in the chancery court of Hamilton County, Tennessee, against the Alabama and Chattanooga Railroad Company and others, she has prayed for the appointment of a receiver, as will more fully and at large appear from her bill filed in said cause;

and whereas said court, upon her motion and the voluntary tender
198 of this bond, and by and with the consent of a majority of the attaching creditors made parties defendant in said suit, the court has appointed the undersigned John H. Gindrat, receiver as prayed for, as will more fully appear by the decree of his honor the chancellor in the premises, which is referred to as explanatory of this bond, and ordered certain property in said decree mentioned, delivered over to said Gindrat to be by him held as the receiver of this court, and used and applied as has or may be directed by said court:

Now, therefore, if the said Gindrat shall well and truly execute the decrees of said court in the premises, and dilligently and faithfully execute the trusts reposed in him as receiver, and account for and pay over all moneys and property in his possession as receiver of this court when required to do so by a decree of said court, then and in that event the foregoing obligation shall be void as to him.

And if the State of Alabama shall well and truly return, or cause or procure a return of all the property which shall be delivered by order of said court, to the said Gindrat as receiver as aforesaid, when re-
199 quired by the court, in like good order and condition, the same as when delivered to said Gindrat as receiver, or in case of failure to so return the property, pay its value in case it should, on the final adjudication of said suit, be required to do so by a decree of said court, the foregoing obligation shall be null and void as to the State of Alabama; but, on failure of said several obligors to perform any or all of the stipulations herein contained, the same shall remain in full force and effect.

And they consent that a decree may be rendered to enforce the conditions herein contained for the benefit of any person who now or who hereafter may become a party to said suit, for such damages as they, or any one or more of them, may be adjudged to have sustained, by reason of any breach of any one or more of the conditions contained herein.

In witness whereof this obligation as signed, sealed, and delivered by
[Alabama. Figure of an eagle in shield with motto. Great seal.] the said John H. Gindrat for himself and Robert B. Lindsay, governor of Alabama, for and in behalf of the State of Alabama, verified by the seal of said State, in this the eight' day of Sept., A. D. one thousand eight hundred and seventy-one.

200 . JOHN H. GINDRAT. [SEAL.]
ROBERT B. LINDSAY,
Governor of the State of Alabama.

Approved:
D. M. KEY,
Chancellor.

(Endorsed:) Filed 8th September, 1871. J. A. Caldwell, C. & M.

STATE OF TENNESSEE,
Hamilton County:

I, James A. Caldwell, clerk & master of the chancery court of said county, do hereby certify that the above and foregoing eight pages contain a true and perfect copy of a decree this day rendered by Chancellor D. M. Key, at chambers, in the case of the State of Alabama as the Alabama & Chattanooga Railroad Company & others, as is of file in my office.

Witness my hand & seal of office at office in Chattanooga, Tenn., this the 8th day of September, 1871.

J. A. CALDWELL,
Com.

201 *Inventory of material and articles in shop store-houses, taken Sept. 23-25, 1871, A. & C. R. R.*

3	old tallow-buckets	25	75
4	tin oil-cans, qt	75	3 00
5	" measures, "	12½	63
3	" " pt	08	24
7	" cups, "	06	42
1	" measure, hf. gal	25	25
12	track-gauges	75	9 00
17	coils—235 lbs. iron wire	10	23 50
4	" — 19 lbs. copper & brass wire	40	7 60
1,247	lbs. car-castings	04¼	53 00
6	lbs. brass "	35	2 10
138	lbs. sheet iron	08	11 04
31	lbs. log-screws	12	3 72
15	lbs. nails, 12d	04⅜	87
56	lbs. nails, 8d	04⅜	2 66
225	lbs. nails, ass'd	04⅜	10 69
292	lbs. " "	04⅜	13 87
423	lbs. " "	04⅜	20 09
277	lbs. " "	04⅜	13 16
378	lbs. " "	04⅜	17 95
528	lbs. " "	04⅜	25 08
608	lbs. " "	04⅜	28 88
613	lbs. " "	04⅜	29 12
176	lbs. " "	04⅜	8 36
138	lbs. spikes	04½	6 21
116	lbs. tank-rivets	14	16 24
236	lbs. britching "	18	42 48
133	lbs. boiler "	09	11 97
897	lbs. square nuts	07½	67 28
600	lbs. " "	07½	45 00
800	lbs. " "	07½	60 00
202 578	lbs. hexagen nuts	10	57 80
1	hydraulic ram	75 00	75 00
315	lbs. new brass	22	100 80
1,680	lbs. log-screws	12½	210 00
108	lbs. bolts	05	5 40
93	lbs. mule-shoes	05	4 65
337	lbs. chair	12½	42 13
200	lbs. iron vise	20	40 00
	Amt. brot. forward		1,070 94
59	brasses—1,435 lbs.—car brasses	35	152 25
22	" 292 lbs. fender "	35	102 20
14	" 245 lbs. engine-truck "	35	85 75
50	" 418 lbs. car brasses	35	146 30
26	" 261 lbs. " "	35	91 35
18	" 27 lbs. hand-car "	35	9 45
55	" 425 lbs. car "	35	148 75
55	" 425 lbs. " "	35	148 75
55	" 425 lbs. " "	35	148 75
385	" 2,975 lbs. " "	35	927 50
343	" 2,650 lbs. " "	35	927 50
8	" 58 lbs. cross-heads & con. rod brasses	35	20 30

15	lbs. copper	25	3 75
160	lbs. ass'd brasses, new	35	56 00
100	lbs. Babbitt metal	35	35 00
525	lbs. springs, second-hand	08	42 00
120	lbs. old brass	15	18 00
50	lbs. " spring steel	05	2 50
1	hds.-light rafle'tor & lamp, old	40 00	40 00
1	" " entire, new	75 00	75 00
100	yds. oilcloth	80	80 00
123	Hibbard springs	4 50 eac.	553 50
	1,035 lbs. hf. el'iptic "	18	186 30
203	200 fts. smoke-stack wire	40	80 00
	50 " " " "	25	12 50
35	lbs. soap	03	1 05
1	stationery engine-gove'ner		130 00
335	lbs. fool-steel	22	73 70
670	lbs. cast-steel, square bars	17	113 90
25	lbs. com. "	14	3 50
842	lbs. octagen "	17	143 14
1	circular saw and mandrill		42 00
36	lbs. copper hammers	35	12 60
1,870	lbs. com. steel	14	261 80
355	" "	14	49 70
65	bars, 3,502 lbs. spring steel, 4 in	12½	437 75
11	" 697 lbs. " " 3 "	12½	87 13
180	fts. rubber hose, 2 in	50	90 00
100	lbs. gum washers, worthless		0 00
70	ft. gum hose	20	14 00
15	lbs. sheet rubber	1 00	15 00
60	lbs. hemp packing	20	12 00
	Forward		6,765 36
	Amount brought forward		" "
70	lbs. pat. packing	75	52 50
15	lbs. rope, hf. in	12½	1 87
20	lbs. rubber springs	75	15 00
6½	lbs. block tin	40	2 60
15	lbs. old brass	15	2 25
1	doz. ventilator tins, plated		7 20
5	" " "	1 00 eac.	5 00
1	lot pipe-fittings—elbows, T's, & connections & sockets—145 lbs	22	31 90
2	prs. door-slides	1 50	3 00
40	lbs. cast scraps	01½	50
204 5	lbs. sheet copper belongs to Tho. Webster		0 00
3	tweer irons	3 50	10 50
1,000	lbs. wrought washers	15	150 00
30	lbs. scrap lead	08	2 40
10	lbs. sole leather	28	2 80
175	lbs. paris green	30	52 50
60	galls outside coach varnish	4 00	240 00
4	" head-light oil	65	2 60
178	sash fasteners	03	5 34
2	axes, new	1 25	2 50
1	foot adze		1 25
1	urinator		2 50

2	brooms	.25	50
151	hammer-handles	.05	7 55
155	lamp-chimneys	.30	46 50
32	irons for seat backs	.70	22 40
10	white globes for lamps	.25	2 50
7	red " " "	.60	4 20
2	hand lamps	.50	1 00
14	coach "	4 60	64 40
28	signal " , worthless		0 00
16	fire-buckets	2 50	40 00
99	new car locks	1 00	99 00
9	scoop-shovels	1 50	13 50
31	sledge-handles	.05	1 55
44	signal flags, complete	.20	8 80
2	axe-handles	.10	20
7	scrub-brushes	.15	1 05
	Amt. bro't forward		7,672 72
5	gall's coach Japan varnish	2 00	10 00
5	" soco "	3 75	18 75
5	" inside "	2 75	13 75
205 5	gall's pale rubbing varnish	4 00	20 00
5	" outside finish "	4 50	22 50
5	" stock "	2 50	10 00
5	" black iron "	1 20	6 00
60	" engine wearing body "	5·00	300 00
50	" " and tender "	4 50	225 00
45	" black lustre "	2 00	90 00
25	" brown Japan "	1 75	43 75
44	" inside coach "	3 00	132 00
44	" outside " "	3 50	154 00
1	desk and table		5 00
100	lbs. glue, worthless		0 60
4	reels for rope		1 50
2	saw-bucks and saws	1 50	3 00
1	stove and pipe		3 50
1	coal-scuttle		1 00
2	shovels	12½	25
1	box arm-seat covers, cotton, worthless		0 00
3	car-castings	.40	1 20
7	monkey-wrenches	1 25	8 75
6	" " worthless		0 00
1	whitewash brush		75
1	hack-saw and 5 blades		2 25
1	lamp and chimney		50
6	soco spring balances	12 50 eac	75 00
1	box brass and iron rivets		2 50
11	bibb cocks	1 00	11 00
5⅞	ins. car-bitts	.77	3 85
7⅞	" " "	.66	4 62
4⅝	" " "	.55	2 20
6¼	" " "	.44	2 64
4⅜	" " "	.33	1 32
206 4¼	in. car-bitts	.22	88
7⅝	stop-cocks	1 20	8 40
1¾	clock *talve*		2 00

	½ doz. pipe-tong holders	6 00	3 00
	3½ lbs. copper rivets	60	2 10
	1 gro. silver head screws		1 50
	7 papers 10 oz. tacks	30	2 10
	Amt. bro't forward		8,869 28
	6 lbs. brass rivets	60	3 60
	4 water-gauges, glass	50	2 00
	30 lbs. bolts	12½	3 75
	51 fts. 4 in. leather belting	20	10 20
	93 " 2½ " "	14	13 02
	185 " 2 " "	12	22 20
	207 " 3 " "	15	31 05
	6 " 6 " "	30	1 80
	5 " 8 " "	55	2 75
	1 doz. 2½ in. padlocks		3 00
	6 only " "	25 eac.	1 50
	5 boxes concent. lye	30	1 50
	½ doz. 12-in. hf. round smooth files	6 00	3 00
	5/12 " 2a cut bastard "	5 60	2 33
	10/12 " 14-in. round "	5 60	4 67
	5/12 " flat bastard "	12 00	5 00
	1 " " smooth "		3 60
	1 " 14 in. hf. round smooth "		7 20
	¼ " 12 " " " " "	6 00	1 50
	1 " 14 " flat "	6 00	6 00
	¼ " 12 " round "	5 50	1 38
	1 " 14 " flat smooth "		65
	5/12 " 12 " " " "	5 00	2 08
	5 hand-saw' "	08	40
207	5 12-in. flat smooth files	40	2 00
	18 8 " square "	15	2 70
	12 ass'd "	15	1 80
	4 12-in. round "	20	80
	2 10 " square "	18	36
	8 chisel-handles		25
	8 lbs. wrapping-twine	30	2 40
	5 old steam-gauges	2 00	10 00
	41 lbs. tin clout-nails	50	21 00
	20 lbs. britching-rivets	20	4 00
	1 doz. cab sash-fasteners		6 00
	1 lock		2 00
	1 doz. tumbler-locks		15 00
	⅓ " "	15 00	5 00
	1/7 gro. 2½-in. screws	1 75	29 75
	Am't bro't forward		9,106 52
	6 gro. ass'd screws	50	3 00
	10 " ⅞ in. "	25	2 50
	50 " 1½ " "	30	15 00
	140 " ass'd "	40	56 00
	20 " 3-in. "	1 75	35 00
	43 " 3½ "	2 00	86 00
	4 yds. cotton-plush	80	3 20
	20 yds. red flannel	40	8 00
	18 lbs. emery	12½	2 25

100 yds. domestic		12½	12 50
6 signal-lamps		7 00	42 00
7 " "		75	5 25
5 tin strainers, worthless			1 00
1 counter-scale and weights			10 00
1 platform " " "			45 00
1 lb. small chain			50
208 4 lbs. press potash		50	2 00
8 lbs. old brass		15	1 20
2 1-in. Bibb cocks		2 50	5 00
6 pet "		2 25	13 50
1 teter "			3 75
2 steam-gauge cocks		1 25	2 50
6 lbs. old brass		15	90
12 pap. lamp-black		10	1 20
8 lbs. spelter		50	4 00
1 lb. borax			50
12 ¾ globe-cocks		1 00	12 00
10 lbs. sulphur		08	80
Lot stove-polish			1 00
15 lbs. glue		80	4 50
½ ream sand-paper			1 00
1 oil-can and pump			12 00
1 letter-file			20
Small store-room in car-shop:			
60 gro. ¾-in. screws, No. 6		20	12 00
60 " " " No. 9		25	15 00
10 " 1¼ " " No. 9		30	3 00
27 " ass'd "		20	5 40
30 " 1½ in. " No. 16		34	10 50
50 " 1 " " No. 10		28	14 00
10 " 1½ " " No. 12		42	4 20
Am't bro't forward			9,562 87
5 gros. 1¾-in screws, 1¼		77	3 85
60 " 1 " " No. 12		33	19 80
1 " 1¾ " " No. 16		75	75
2 " 3 " " No. 14		90	1 80
6 " 1¼ " " No. 9		30	1 80
209 3 gro. 1¼ in screws 14		45	1 38
½ doz. drawn locks		1 50	75
17 ass'd door "		50 ea.	8 50
5 chisel handles		10	50
4 doz. sash-locks		3 60	14 40
½ " night-latches		2 25	13 50
16 pasg. car locks		2 25	36 00
12 prs. strap-hinges		12	1 44
28 " 3½-in. butts		8	2 24
10 " strap-hinges		30	3 00
1 ball twine			20
5 glue		30	1 50
8 plated ventilator handles		2 00	16 00
5 doz. car-seat brasses chatz		3 60	18 00
10 new brass car trimmings		50	5 00
2 doz. sash and blind fast'ings		1 60	2 00

8 doz. blind springs	.75		6 00
2 " sash "	.50		2 00
1 " bell ropes brasses			12 00
1 " match-scrapers			2 25
4 bell-rope guides			6 00
1½ doz sash fast'ings	2 00		3 00
5 " " liftings	.75		3 75
2 " ventillator-brasses	.50		1 00
60 papers silver lining nails	.6		3 60
2 looking-glasses belonging to a car			1 00
1 crosscut-saw			4 00
2 augurs—2 in	1 50		3 00
1 brace			1 25
2 lamps, old	2 50		5 00
106 gro. 1-in. pat. brads	.06		6 36
165 pap. 8 oz. tacks	3½		5 78
210 48 pars. 6 oz. tacks	3½		1 68
22 " finishing nails	.10		2 20
Amt. bro't forward			9,784 12
18 paps. ⅝ in. finishing nails	.10		1 80
27 " 1 " clout "	.18		41 86
16 " finishing "	.10		1 60
57 " 1¼ " brads	.10		5 70
86 " 10 oz. of tacks	3½		3 01
1 monkey-wrench			75
65 paps. 10 oz. tacks	3½		2 28
186 " 1½ in. brads	12½		23 25
2 gro. 2 " silver-head screws	3 50		7 00
1 " 1½ " " "			2 00
11 10 in. saw-files	.25		2 75
1 rut tail "			50
5 gro. ass. screws	.30		1 50
5 reams sand-paper	3 50		17 50
8 yds. oil-cloth	.75		6 00
1 desk			3 00
1 chair and cushion			2 50
73 paps. 1¼ in. brads	.10		7 30
			9,877 42

211 CHATTANOOGA, TENN., *Sept. 25th*, 1871.

We, the undersigned, Thomas Webster and Chas. H. Mills, having been duly appointed by the clerk and master in chancery, and James H. Vanalstine and Chas. D. Gaylord having been duly appointed by Col. J. H. Gindrat, receiver to take an inventory of all the property of the Alabama and Chattanooga Railroad Company within the jurisdiction of the court, do hereby certify that the inventory hereto*fore* attached pages one (1) to eight (8) inclusive is a supplementary inventory of goods and articles contained in the store-rooms connected with the shops of the said company, into which we were unable to obtain admittance at the time of taking the inventory filed under date of September 20th, 1871, and that the property enumerated and set forth in this inventory is in addition to that enumerated and set forth in the inventory filed September 20th, 1871, and that this supplementary inventory hereunto

attached is correct as to items and amount as given, viz, nine thousand eight hundred seventy-seven dollars and forty-two cents, ($9,877 $\frac{42}{100}$) to the best of our knowledge and belief.

JAMES H. VANALSTINE,
CHAS. D. GAYLORD,
For Receiver.

C. H. MILLS,
THOS. WEBSTER,
For Clerk and Master in Chancery.

212 I have received of J. H. Caldwell, clerk, & master and receiver of the chancery court of Hamilton County, Tennessee, in the case of Jno. C. Stanton et als. (vs.) The Alabama & Chattanooga R. R. Co. et als., all the property mentioned and set out in the foregoing inventory & appraisement, valued at nine thousand eight hundred & seventy-seven & $\frac{42}{100}$ dollars; said property turned over to me as the receiver of said court in the case of the State of Alabama vs. The A. & C. R. R. Co. & creditors, & is the property which was not included in my former receipt. I am responsible to said court as rec'r for all of said property.

JOHN H. GINDRAT,
Receiver, &c.

CHATTANOOGA, TENN., 25*th Sept.*, 1871.

As receiver of the A. & C. R. R. I have received from the different authorities along the line of the road the following property: One engine, &c., No. 2, and one No. 1; also 1st-class passenger car No. 13; No. 11 & No. 2, 2nd class pass. cars; 1 Dalton car, one A. & C. car, & one No. 9; cabo'se cars No. 1, No. 1003; 1 express & one A. & C. bag. & mail express car, also locomotive No. 10, (Mississippi,) No. 5 & No. 1, & No. 19 and No. 13, Henry E. Waite, & No. 16, J. C. Stanton; also box-cars,
213 Nos. 1095, 1025, 1057, 1082, 1054, 1035, 1019, 1052, 1102, 1029, 1090, 1023, 1046, 1088, 1085, 1069, 1005, 1070, 1033, 1089, 1090, 1041, 1071, 1080, 1060, 1093, 1076, 1043, 1074, 1101, 1064, 1050, 1084, 1010, 1030, 1035, 1037, 1040, 1021, 1013, 1028, 1027, 1029, 1023, 1016, 1034, 1094; also locomotives D. N. Stanton; also flat cars, No. 534, 148, 138, 189, 164, 524, 190, 224, 153, 159, 199, 157, 141, 123, 202, 193, 179, 194, 216, 110, 171, 187, 514, 535, 516, 1822, 115, 181, 131, 189, 160, 514, 187, 45, 184, 220, 185, 228, 516, 134, 217, 111, 121, 138, 170, 223, 105, 150, 154, 116, 184; & 3 no numbers. The above may not be included in my receipt to J. H. Caldwell, C. & M., at Chattanooga, Tennessee.

This 27th December, 1871.

JOHN H. GINDRAT,
Receiver.

(Endorsed:) "Filed 25th Sept. 1871. J. A. Caldwell, C. &. M.

I, James A. Caldwell, clerk & master of the chancery court of Hamilton County, do hereby certify that the foregoing nine and one-half pages contain a full, true, & complete transcript of two invoices of property of the A. & C. R. R. Co., and the receipts of Jno. H. Gindrat, receiver, &c., for the same, as the same are of file in my office, this 3rd June, 1872.

J. A. CALDWELL, *Com.*

214 The following property of the A. & C. R. R. Co. was turned over to John H. Gindrat, receiver, by the authorities of the State of Georgia, as per statement made to me by Col. White, receiver of said road in Ga.:

3 engines Nos. 5, 12, & 16, (J. P. Stanton, Gov. Smith, & ———.)
2 passenger-coaches Nos. 2 & 9, (1st class.)
2 " " " 1 & 1, (2nd class.)
1 baggage, mail and express car, A.
1 express car, No. 2.
12 box-cars Nos. 1,061, 1,070, 1,053, 1,010, 1,101, 1,086, 1,060, 1,008, 1,100, 1,003, 1,073, 1,017, & one No. Nr. (painted blue,) 1 stock car No. 2,001; 14 flat cars Nos. 169, 167, 205, 196, 119, 108, 221, 191, 174, 132, 163, 159, 214, & 176.

Some of the items above set forth were included (or may have been) in the list attached in case of J. C. Stanton vs. The Ala. & Chatta. Railroad Company and others.

J. A. CALDWELL,
C. & M.

This January 1st, 1871.

The above is a true copy of a paper now on file in my office in the case of the A. & C. R. R. Co.

Witness my hand & seal of said court at office, in the city of Chattanooga, this 3rd June, 1872.

J. A. CALDWELL, *Com.*

215 *Inventory of stock and fixtures of A. & C. R. R. Company, commenced Sept.* 9, 1871.

AUDITOR'S OFFICE.

4 desks	45 00	180 00
1 safe		750 00
7 chairs	2 00	14 00
1 letter-press and stand		20 00
4 spittoons	50	2 00
3 waste-baskets	20	60
7 inkstands	50	3 50
2 mucilage-bottles	25	50
1 counter, desk and fixtures		800 00
72 yds. cocoa matting	25	18 00
2 doz. paper boxes, small	5 00	10 00
2 " " " large	6 00	12 00
4 wooden wrist-rests	25	1 00
1 pr. bank shears		75
3 bells	75	2 25
2 paper-weights	25	50
2 sponge-dishes	25	50
1 record book No. 1		8 00
1 lumber, wood and cross-tin book, No. 2		8 00
1 letter-scale		75
1 feather duster (broken)		50
1 tin stamp-box		25
1 calendar		3 00
1 water-cup and brush		50
1 2-burner chandelier, fixtures		0 00

5 bracket " & 2 shades, fixtures			0 00
1 iron twine-box			75
4 wire paper-files		1s.	50
1 conducting transportation-book No. 4			30 00
1 maintenance of way " No. 5			25 00
1 construction expense " No. 6			30 00
216 1 day-book No. 7			10 00
1 motive-power book No. 8			20 00
Amt. bro't forward			1,952 85
Auditor's office:—Continued.			
Brot. forward			" "
1 general expense book No. 9			30 00
1 journal No. 10			20 00
1 ledger No. 12			20 00
1 maintenance of cars No. 11			20 00
1 cancelling stamp			6 08
1 tin envelope box			25
1 stove and pipe			18 00
General superintendent's office:			
2 desks		150 00	300 00
8 chairs		8 00	64 00
1 letter-press and stand			20 00
1 small wood oval table			4 00
1 chandelier, 4 burners, fixtures			0 00
34 yds. carpeting		1 50	51 00
2 large rugs		5 00	10 00
6 mats		1 25	7 50
1 marble-top table (from directors' car)			25 00
1 drop-light			7 00
1 bulletin-board			48 00
2 side chandeliers & shades, fixtures			0 00
1 framed view of Chattanooga			7 00
1 calender			3 00
4 prs. damask curtains			125 00
1 feather duster			1 00
1 inkstand			50
1 pen-rack			50
1 waste-basket			25
217 stove and pipe			18 00
Local treasurer's office:			
3 desks		35 00	105 00
1 " and top			60 00
1 letter-press and stand			20 00
Am't forward			2,943 85
Local treasurer's office—Continued:			
Am't bro't forward			" "
1 chandelier, 2 burners, (fixtures,)			0 00
3 chairs		2 00	6 09
1 "			8 00
1 "			4 00
34 yds. cocoa-matting		10	3 40
2 bracket-chandeliers, (fixtures)			0 00

1 cancelling stamp			6 00
1 post-office box			1 00
2 paper clips		.50	1 00
1 rule			2 00
3 inkstands		.50	1 50
1 mucilage-bottle			25
2 waste-baskets		.50	1 00
2 spittoons		.50	1 00
1 stove and pipe			18 00
Land-office:			
2 desks		20 00	40 00
1 table			1 00
1 letter-press & stand			20 00
1 spittoon			1 50
2 chairs		2 00	4 00
2 inkstands		1 00	2 00
1 " " and sponge-dish			2 00
2 pen-racks		.25	50
1 rule			1 00
1 paper-clips			25
1 straight-edge			25
1 bracket chandelier, (fixtures)			0 00
218 1 map United States			11 00
30 yds. cocoa matting		.20	6 00
Forward			3,084 50
Am't bro't forward			" "
Engineer's office:			
1 desk			20 00
1 case drawers			20 00
2 chairs		2 00	4 00
1 copying-press			20 00
34 yds. cocoa matting		.25	8 50
3 drawing-tables & 2 trestles			15 00
3 squares		1 50	4 50
1 students' lamp			5 00
2 bracket chandeliers, (fixtures,)			0 00
3 inkstands		.25	75
3 paper p. weights		.25	75
1 mucilage-bottle			25
1 paper-weight			25
1 stool			3 00
1 rule			1 00
1 stove and pipe			18 00
1 wooden box field-notes, 1box profiles			0 00
Upper hall:			
25 yds. cocoa matting		.20	5 00
15 " " " on stairs		.20	3 00
3 chairs		2 08	6 00
2 door-mats		.75	1 50
1 duster			75
1 chandelier, (2 burners,) fixtures			0 00
3 transit-instruments and levels, with tripods, complete		275 00	825 00
1 compass, 50.00; 2 chains, 40.00; 2 rods, 40.00			130 00

219	Lower hall:		
	4 mats	75	3 00
	3 chairs	1 00	3 00
	2 brooms	25	50
	1 settee	4 00	4 00
	1 waste-basket		25
	Cocoa matting		2 00
	1 chandelier, 2 burners, fixtures		0 00
	1 waste-basket and dipper		50
	Amt. forward		4,190 00
	Master of transportation office:		
	2 desks	8 00	16 00
	2 chairs	2 00	4 00
	2 "	3 00	6 00
	1 stool		3 00
	1 desk and counter		25 00
	1 copying-press		5 00
	1 " " and stand		20 00
	1 bulletin-board		1 50
	1 clock		15 00
	Local-freight office:		
	1 desk		25 00
	1 "		15 00
	1 table		1 00
	1 copying-press and stand		75 00
	3 chairs	2 00	6 00
	1 iron-safe		100 00
	1 letter-box		1 00
	1 stove and pipe		6 00
	3 letter-files	25	75
	2 waste-baskets	25	50
	6 paper-weights	25	1 50
	6 inkstands	50	3 00
	2 sponge-dishes	20	40
	1 ticket-stamp		1 50
	1 duster		40
	2 paper-clips	25	50
220	3 warehouse-trucks	5 00	15 00
	3 baggage-trucks	20 00	60 00
	3 platform-scales, 5 tons, (Fairbanks,) fixtures	200 eac	600 00
	Amt. forward		5,198 05
	Store-house:		
	100 lanterns	12 00 doz	100 00
	2 signal-lamps	7 00 eac	14 00
	15 red globes	75	11 25
	94 white globes	50	47 00
	4 students' lamp	5 00	20 00
	15 round globes, gr'd glass	1 00	15 00
	21 hf. galls. cans	2 50 doz	4 38
	29 gall. "	3 50 "	8 46

23 hf.	"	"	2 50	"	4 79
27 gall.		"	3 50	"	7 87
2 drop-lights			7 00		14 00
3 letter-files			25		75
7 cases, 70 galls. gasoline			25		17 50
17 boxes, 850 ft., 10x14 glass			3 75	box	63 73
5 red flags			50		2 50
2⅛ doz. concent. lye			1 75		4 08
½ box glass			3 75	box	1 88
⅚ doz. marking-pots			2 00		1 67
3 gro. matches			2 75		8 25
16¼ boxes coach-candles					168 00
1	"	4 doz. car-locks	18 00	doz	72 00
½	"	star-candles, 23 lbs	14		3 22
1,400 lbs. white lead			08		112 00
7 qts. mucilage			75		5 25
½ ream paper					2 00
1 doz. mucilage					3 00
221 1 jug—1 galls. ink—Arnold's fluid					1 50
11½ doz. carmine ink			3 00		2 75
6½	"	Arnold's ink, qts	7 50	doz.,	48 75
1	"	inkstands			6 00
7-12	"	crimson ink	3 00		1 75
1 box ass'd screws					2 50
255 gro. ass'd screws					254 00
1 doz. files					1 00
Amt. bro't forward					6,228 90

Store-house—(continued:)

50 lbs. vermilion, light scarlet			25		12 50
25 lbs. chrome green			25		6 25
22 lbs. vermilion			25		5 50
4 papers bone-black					10 00
5-12 doz. wood faucets			1 00		42
1 bung-borer, 2 augers, 1 draw-knife, 1 cotton-hook					1 50
30 lbs. cotton twine			40		12 00
1 letter-press					8 00
2 dusters					1 00
⅔ doz. tin plates			40	doz.,	27
8-12	"	broad-axes	2 25	ea.,	18 00
7 cast gas "T's"			1 00		7 00
7 water-boxes for copying-press			25		1 75
1 water-clost basin					5 00
7 paint-brushes			1 00		7 00
3 doz. brass cocks			20 00		60 00
10 copying-books			1 50		15 00
3 M large envelopes			4 00	M	12 00
222 4 freight copying-books			4 00		16 00
5 reams	"	paper	4 00		20 00
7 M small envelopes			1 50		10 50
10 balls flax twine					1 25
12 "	"	"	18¾		2 25
7 "	"	"	15		1 05
16 reams cap-paper			3 50		56 00

3	" note "	2 00	6 00
8 doz.	time-books	1 50	12 00
10 gro.	lead pencils	4 50	45 00
3	large time-books	1 50	4 50
11 gro.	ind. rub. bands	37	4 07
	Amt. bro't forward		6,590 71
	Store-house—(continued :)		
7 gro.	steel pens	37	2 59
1½ doz.	ink	1 00	1 25
10½ "	mem. pass-books	75	7 87
100 lbs.	putty	06½	6 50
7 doz.	time-books	1 50	10 50
1 "	pass-books		2 00
1½ "	" "	2 25	3 38
2 "	" "	75	1 50
1⅙ "	" "	2 00	2 33
2½ "	" "	3 00	7 50
1 "	" "		1 50
4 "	" "	50	2 00
⅔ "	" "	1 25	83
3 "	" "	3 00	9 00
¾ "	memorandum-books	2 00	1 50
½ "	" "	1 25	63
½ "	blank notes	6 00	3 00
106	blank-books ruled for passengers and freight office, unserviceable		6 00
1 doz.	receipt-books		1 20
1	wardrobe		10 00
3	letter-press rollers	1 00	3 00
6	platform-scales	35 00	210 00
223 2	letter-presses, large	30 00	60 00
1,356 lbs.	sash-weights	03	40 68
1	book-case		10 00
1	desk		10 00
2	telegraph-tables	1 50	3 00
300	pallets, ticks	25	75 00
15,690 lbs.	roofing-iron	07½	1,176 75
1 doz.	walnut ticket-cases, large agencies	20 00 ea.	240 00
10	wall-brushes	75	7 50
1	hand-boring machine		5 00
3	walnut ticket-cases, small agencies	10 00 ea.	30 00
	Amt. brot. forward		8,536 72
	Store-house—continued :		
1	jack-screw		12 00
2	letter-presses, large	60 00	120 00
15 gro.	machinists' and pick handles, ass'd	10 00	150 00
2 gro.	wagon-grease	6 00	12 00
200 lbs.	door stripes	12½	25 00
39½ doz.	mattocks and picks	12 00	474 00
2 "	tamping-bars	13 00	26 00
	Lot shovels, private property		0 00
60 lbs.	com. soap	04½	2 70

	2 boxes gas-fixtures			
	6 gas-pendants, large, 2 lights	4 00		24 00
	1 " " small, 2 "	2 00		2 00
	4 " burners	1 50		6 00
	1 box star-candles, 46 lbs	14		6 44
	25 lbs. soda	07		1 75
	1 doz. engine-gongs	4 50	ea.	54 00
	3 boxes advertising cards, no money value			0 00
	6 conductors' boxes	4 00		24 00
	8 stoves	3 00		24 00
	30 kegs nails, 12d	5 50		165 00
	24 " " 30d and 40d	5 50		132 00
224	6 kegs nails, ass'd	5 50		33 00
	8 h'f kegs FF. G. powder	3 25		26 00
	2 kegs nails, 10d	5 50		11 00
	2 " " 8d	5 50		11 00
	32 " spikes, 60d	6 75		216 00
	8 " nails, 10d	5 50		44 00
	5 " bridge-screws	2 50		12 50
	8 brooms	25		4 00
	8 coal-scuttles	50		4 00
	9 trucks, No. 3	5 00		45 00
	10 kegs, 1,500 lb. bridge-spikes	2 50	keg,	25 00
	4 trucks, No. 3	5 00		20 00
	Brot. forward			10,258 86
	Store-house—(continued:)			
	12 tin cans, 2 gall			4 50
	54 cotten-hooks	10		5 40
	400 lbs. gas-connections	10		40 00
	100 lbs. hoop-iron	08		8 00
	3 panel doors	4 00		12 00
	2 pat. safety stoves, Grant	25 00		50 00
	6 stoves	5 00		30 00
	4 neck-yokes	1 00		4 00
	70 galls. coal-oil	34		23 80
	2 oil cans and pumps	15 00		30 00
	2 maps, cotten	1 00		2 00
	4 large saws	3 00		12 00
	1 buck "			2 00
	4 galls. mineral sperm-oil	60		2 40
	1 " copal varnish			3 00
	2 door-locks	75		1 50
	5 brass cocks	1 50		7 50
	6 tin lamps	25		1 50
	10 couplings, 1½ in	1 00		10 00
	23 lbs. brass	12½		2 88
	9 Ind. rub. spittoons	75		6 75
	2 spike mauls	1 50		3 00
	40 gals. lard-oil	70		28 00
225	38 galls. signal-oil	50		19 00
	40 " enamel varnish	5 00		200 00
	40 " coal-tan, 1 brls	5 50	brl.,	5 50
	75 lbs. yellow ochre	02		1 50
	300 lbs. putty	06		18 00
	40 gals. sperm oil	1 60		64 00

1 bale, 550 lbs., waste	12½		68 75
2 door-lamps for office	5 00		10 00
1 double-acting pump, (private property)			
3 door-lamps on outside buildings	5 00		15 00
Am't bro't forward			10,950 84
General freight and ticket office:			
1 counter and fixtures			600 00
1 double standing-desk and top			75 00
2 single sit-down desks	20 00		40 00
1 cupboard			8 00
3 chairs	2 50		7 50
1 "	2 50		2 50
1 "			4 00
1 ticket-case, lge., for this office			50 00
72 yds. cocoa matting	25		18 00
1 chandelier, 2 burners; fixtures			0 00
1 ticket-case, large; agencies			20 00
4 bracket-burners, fixtures			0 00
1 ticket-case, small; agencies			10 00
8 ink-stands	50		4 00
2 mucilage bottles	25		50
1 bank-shears			75
3 cancelling-stamps	8 00		24 00
9 paper-weights	25		2 25
2 tin envelope-boxes	25		50
1 copying press and stand			20 00
1 looking-glass			3 00
2 pine tables	2 00		4 00
1 post-office scale			1 00
2 office-stools	2 00		4 00
2 spittoons	50		1 00
Forward			11,850 84
226 Am't bro't forward			11,850 84
Gen'l freight & ticket office—Continued:			
1 book local tickets, delivered, 8 quires, No. 13			25 00
1 " coupon " " " " No. 14			25 00
1 " freight, ass'd " " " No. 15			25 00
1 " ledger " " No. 16			4 00
1 " journal 8 " No. 17			6 40
1 " ledger " " No. 18			6 40
1 " journal 6 " No. 19			3 00
1 " " 8 " No. 20			4 00
6 " expense 6 " 36 quires, 80c.			28 80
2 " abstract way-bills 6 " 12 " 80c.			9 60
5 " agents' a'ssd 5 " 25 " 60c.			15 00
6 " receipt 4 " 24 " 40c.			9 00
1 " merchandise forwarded 4 " " 40c.			1 60
3 " agents' cash 4 " 12 " 30c.			3 60
4 " freight forwarded	3 00 ea.,		12 00
1 " passenger departed			6 00
2 " condensed pass. report	25 00 ea.,		50 00
2 " memorandum, 3 quires			96

1	"	freight earnings		2 50
1	"	earnings		1 00
1	"	tons moved		1 00
1	"	pass. "		1 00
4	"	station-agts'	2 00	8 00
10	"	grade blanks		5 00
15	"	agents' check, nominal value	50	7 50
3	"	pass—worthless		0 00
1	"	blank, 2 quires	20	40
5	"	agents' receipts	1 00 ea.,	5 00
5	"	direction way-bills	50	2 50
2	"	memorandum	20	40
1	"	impression, large		4 00
2	"	" small	2 00	4 00
1	"	index-letter		1 50
1	Scot	impression-paper		75
		Forward		12,131 35
227		Am't bro't forward		12,131 35
		General freight and ticket office—Continued:		
1½		quires large wrapping-paper	30	45
6¼		yds. violet rubber-cloth	3 00	18 75
1		express trunk—no key		3 00
1		punch—nominal value		1 00
2		ticket-stamps, dus, &c		10 00
13		bots. ink	15	1 95
7/12	"	blk	50	30
1		bot., 1 qt., Arnold's ink		75
7	"	carmine "	37½	2 62
12½		re'ms shipping rec'pts	4 re'm,	50 00
4½	"	ruled paper, blanks	6	27 00
¾	"	" " small	4	3 00
2		re'ms ruled pass. statements	10	20 00
1	"	printed "		4 00
3	"	freight-bills	4 00	12 00
1½	"	destination of freight	4 00	6 00
1	"	monthly blanks	4 00	4 00
1	"	letter-paper		4 00
½	"	pass. bal. blanks, useless		0 00
½	"	statement coupon-tickets	4 00	2 00
1½	"	station-agts.' reports	4 00	6 00
2		quires blotting-paper	60c.,	1 20
3		boxes Manilla R. R. S. envellop's	75	2 25
¾		M small envellopes	2 50	1 87
1	"	do. large "		4 50
22		steel files	2 00	44 00
6		ribbon-stamps	12	72 00
3		re'ms statement station, etc	4	12 00
2	"	freight-bills	4 00	8 00
3	"	daily abstracts	3 00	9 00
½	"	tally-sheets	2 00	1 00
4	"	conductors' reports	3 00	12 00
1	"	blank contract		3 00
1	"	monthly pass. balance-sheets		4 00
		Forward		12,482 99

228	Am't bro't forward		12,482 99
	Gen'l freight and ticket office—Continued:		
	½ ream error statements	4 00	2 00
	2 " way-bills	6 00	12 00
	1 " " "		6 00
	1 " requisitions for tickets		5 00
	1 " ticket reports		7 00
	1 lot blanks, several forms, worthless		0 00
	Checks:		
730	through reversible baggage	16	116 80
830	local baggage	12½	103 75
	Tickets:		
44,350	coupon tickets		88 70
327,662	local "	1 50	491 49
	Flat cars, 1st class; value, 630 00:		
3,	Nos. 222, 201, 183	630 00	1,890 00
1,	" 210, damaged, $30.00		600 00
1,	" 204, " $600, (no trucks)		30 00
1,	" 181, " $75		555 00
1,	" 530, " $75		555 00
1,	" 186, " $50		580 00
1,	" 200, " $40		590 00
1,	" 219, " $25		605 00
1,	" 180, " $75		555 00
3,	" 192, 224, 177	630	1,890 00
1,	" 198, damaged, $25		605 00
1,	" 206, " $15		615 00
1,	" 209, " $10		620 00
1,	" 208, " $15		615 00
229	1, Nos. 195, damaged, $65		565 00
	Am't bro't forward		24,185 73
	Flat-cars, 2nd class, value $568.00:		
5,	Nos. 143, 151, 153, 139, 113, @ 568.00		2,840 00
1,	" 109, damaged, $100		468 00
1,	" 137, " $200, (springs gone)		368 00
1,	" 130, " $75		493 00
1,	" 158, no trucks—bed only		150 00
1,	" 128, damaged, $125		443 00
1,	" 122, " $65		503 00
1,	" 145, " $25		543 00
1,	" 157, " $40		528 00
1,	" 150, " $15		553 00
	Flat-cars, 3rd class, value $440:		
1,	no mark—old Gov't truck		440 00
1,	No. 111, damaged, 75.00		365 00
1,	no mark, Gov't car		440 00
1,	" " " "		440 00
1,	" " in shops, damaged, 300		140 00
	Box-cars, 1st class, value 750.00:		
15,	Nos. 1065, 1030, 1055, 1057, 1072, 1075, 1047, 1086, 1062, 1031, 1102, 1039, 1087, 1091, 1093		11,250 00

4, Nos. 1096, 1097, 1098, 1099, (not completed)		3,000 00
1, " 1092, damaged, short truck & brake damaged	285 00	465 00
1, " 1048, damaged $25		725 00
1, " 1066, " $35		715 00
1, " 1083, " $35		715 00
1, " 1048, " $20, needs 2 new doors		730 00
230 1, Nos. 1063, damaged		750 00

Box-cars, 2nd class, valued 702.00:

3, Nos. 1020, 1007, 1009, @ 702.00	2,106 00

Box-cars, 3rd class:

None.

Am't bro't forward	53,355 73

Caboose cars, 1st class:

1, No. 1	855 00

Caboose-cars, 2nd class, value 702.00.

1 m'ked A and C	702 00
1 " Caboose	702 00
1 " Express	702 00
1, No. 1012	702 00
1 m'k'd mail and baggage, damaged 50	652 00
1, No. 1, damaged 200	502 00

Caboose-cars, 3rd class, value 440.00:

1, No. 1003	440 00

Sundries:

1 hand dump-car, 2nd class	30 00
1 pr. 2nd class flat-car trucks	150 00
1 pass. coach truck, on flat, damaged 137	150 00
2 derrick masts and booms	50 00
1 letter-press on flat-car # 130	12 00
1 pr. 28-in. wheels and axels on car 130	40 00
1 truck to 2nd class flat-car	150 00
1 express-car frame in shops	400 00
1 2nd class pass. car body in shops	1,000 00
231 Gravel-cars, with 2nd-class truck, value 568.00:	
3, Nos. 127, 1 no mark, No. 134, 568.00	1,704 00
Am't bro't forward	62,298 73

Stock-cars, 1st class, value 746.00:

2, Nos. 2,000, 2,003, 746.00	1,492 00

Coal-cars, 1st class, value 667.00:

5, Nos. 513, 529, 519, 537, 527, @ 667.00	3,335 00
4, " 517, 536, 523, 531, (at Richardson's tannery,) 667.00	2,668 00

	Coal-cars, 2nd class, value 417.00:	
1, No. 503, damaged, 40		577 00
1, " 508, " 40		577 00
1, " 506, (at Richardson's tannery)		617 00
	Passenger-cars, 1st class:	
2, Nos. 10, 12, @ 5,50'.00		11,000 00
	Passenger-cars, 2nd class:	
1, No. 8		4,500 00
1, " 7		3,900 00
	Passenger cars, 3rd class:	
1 m'k'd C. Jackson and Sharp		1,800 00
	Am't bro't forward	92,764 73
	Machine-shops:	
1 Dale and Silver saw-gummer		8 00
1 boring-mill		1,225 00
1 hydraulic wheel-press		825 00
1 axel-lathe		875 00
232 1 32-in. 10-ft. sling-lathe		1,280 00
1 24 " engine-lathe, 10-ft. bed		1,050 00
1 18 " " "		400 00
1 8-ft. iron-planer		1,200 00
1 8-in. shaping-machine		850 00
1 No. 1 drill-press		300 00
1 No. 5 " "		800 00
1 No. 3 " " and 3 setts drills—33 twist-drills, 56 couson-drills		1,025 00
1 bolt-cutter		675 00
1 double nut-tapper		350 00
1 Sturtevant fan		120 00
1 portable engine		1,000 00
1 grindstone and fixtures		125 00
1 stationary engine under construction, not completed		800 00
1 pattern-makers' lathe		275 00
1 small wood-morticer		100 00
1 steam-guage and testing-apparatus		125 00
1 " "		25 00
1 headlight		60 00
1 " " case		20 00
6 vices, 25.00		150 00
1 "		25 00
1 small hand-grindstone, mounted		5 00
1 Daniels planer		900 00
1 railway morticing-machine		800 00
1 saw-gummer		600 00
1 railing cut-off saw and table, 450.00; 1 Fay turning-machine, 400.00		850 00
1 scroll-saw—Wright's—$375.00; 1 horizontal borer, $120		495 00
1 portable fire-extinguisher, 100.00; 1 moulding-machine, 300.00		400 00
	Am't forward	109,932 73

233	Am't bro't forward		109,932 73
	Machine-shops—Continued:		
	1 pair patent pull'y-blocks		40 00
	1 24-in. Woodward plane & matcher		675 00
	1 circular saw, bench, & 4 saws		110 00
	1 monitor moulding-machine		800 00
	1 iron-frame double saw, pattern-maker's table		325 00
	1 small sticking-machine		165 00
183	ft. shafting, 6,039 lbs	.10	603 90
5,720	lbs. pulleys, couplings, and hangers	.10	572 00
32	33-in. car-wheels	18 00	576 00
18	28 " " "	16 00	288 00
470	pulleys	.10	47 00
17	car-stove' and fixtures	25 00	425 00
2	shop "	5 00	10 00
1	" " large		20 00
5	elevating trestles and rollers	$8 00	40 00
3	work-benches and screws	8 00	24 00
4	trestles	2 00	8 00
1	cross-cut saw, l'ge, hand		4 00
1	blind-slat turning-machine		100 00
1	pat. duster and fan—complete fixtures		0 00
	Patterns belonging to engines & cars, estimated value.		2,000 00
1	shop-stove		2 00
3	pat. maker's benches	8 00	24 00
300	ft. pattern-makers' lumber, in pattern-shop		12 00
1	elevating trestle in machine-shop		8 00
4	chairs in office	2 00	8 00
2	desks in " 35.00; 2 spittoons, 1.50		36 50
2	tables, 4.00; 1 bell-gong, 4.50		8 50
1	letter-press, 8.00; 2 coal-buckets, 1.00; 1 clock, 10.00		19 00
1	waste-basket, 25 cts.; 1 water-bucket, 25 cts		50
234	1 cupboard, 5.00; 1 lounge to directors' car, $20.00		25 00
1	stove and fixtures 15.00; 1 operating round, 8.00		23 00
1	card-frame, 3.00; 2 blank-books, 6.00		9 00
	Am't bro't forward		116,941 13
	Sitting-room—passenger-depot:		
1	stove and fixtures		18 00
31	chairs	2 00	62 00
6	spittoons	.25	1 50
50	yds. cocoa-matting—old	.25	12 50
3	coal-oil lamps and shades	1 00	3 00
10	lamps—5 red and 5 white	1 50	15 00
2	buckets	.30	60
1	coal-scuttle		75
50	Manilla rope	.22	11 00
3	brooms	.25	75
2	oil-cans—1 galls	.25	50
2	" " ½ "	.20	40
	Ticket-office—depot:		
1	stand-lamp		2 50
2	cancelling-stamps	12 00	24 00
1	ticket-case—l'ge—agencies'		20 00

	Paint-shop:		
	225 mixed and damaged paints, in pots	.08	18 00
	300 red lead	.10	30 00
	3 galls. engine lustre—black	2 25	6 75
	20 " wood-finish	5 00	100 00
	30 pumice stone	.03	90
	5 galls. black varnish	2 25	11 25
	1 paint-mill		20 00
	1 " stone, grinder, pestle, & knife		15 00
	65 lbs. whiting	.02½	1 62
235	15 galls. boiled oil	1 10	16 50
	1 oil-can		5 00
	10 galls. wearing-body varnish	3 00	30 00
	Am't bro't forward		117,368 65
	Paint-shop—Centennial:		
	10 galls. Vallentine body-varnish	4 50	45 00
	5 " coach "	6 00	30 00
	5 " locomotives "	5 50	27 50
	5 " Vallentine hard-drying varnish	4 50	22 50
	½ " heavy-body varnish	3 60	1 80
	½ " light " "	3 60	1 80
	½ " inside finish	2 75	1 37
	½ " outside "	4 50	2 25
	8 lbs. gum shellac	.80	6 40
	3 lbs. white "	1 00	3 00
	14 ozs. carb. magnesia		35
	15 galls. inside rubbing varnish	3 00	45 00
	75 yellow ochre	.05	3 75
	4½ boxes 8x12 glass	4 00	18 00
	3 locomotive hd-light glasses	1 00	3 00
	1 box-coach glass, 16 lights	.25	4 00
	1 " " " 18 x 32		9 00
	6 water-buckets	.20	1 20
	2 dusting-brushes	.25	50
	1 ticket-case, small agencies		3 00
	1 sett stencil figures		4 00
	46 window-frames for pas. coach		138 00
	49 blinds " " "	3 75	183 75
	19 Venetian blinds	3 50	62 00
	48 ventilating frames for pass. & ex. cars		120 00
	58 window-frames for express car, part finished		175 00
	Forward		118,280 82
236	Am't bro't forward		118,280 82
	Car-shop:		
	15 benches and screws, some screws short	8 00	120 00
	2 shop stoves	8 00	16 00
	1 vise		3 00
	Machine-shop tools:		
	1 sett tape, each U. S. Tap and Die Co., 3 tape, ea. do. 12 thread, 1¼, 1 3/16, 1⅛, 1 1/16, 1, 15/16, ⅞, 13/16, ¾, 9/16, 1¼, 1⅛, 15/16, ⅞, 13/16, ¾, 11/16, 18 setts, at	4 50	81 00

4	setts—2 to a sett—$\frac{5}{8}$, $\frac{1}{2}$, $\frac{7}{8}$, $\frac{3}{4}$, @	3 00		12 00
1	" " " " $\frac{3}{8}$,			1 50
4	12-inch flat smooth files	7 00	doz.,	2 33
1	doz. 10-in. square bastard cut files	6 50	"	6 50
10	10 " flat " "	6 50		5 42
3	8 " " 2d cut "	4 50		1 12
1	face-plate			25 00
9	pr. stocks and dies	3 00		27 00
9	fluted reamers	3 00		27 00
15	rose-bitts	4 00		60 00
31	lbs. ratchet-drills	50		15 50
330	lbs. turning-tools	40		132 00
37	lbs. boring-bitts	40		14 80
102	lbs. cold chisels	40		40 80
20	lbs. old steel tools	40		8 00
170	lbs. " files	06		10 20
	Pipe-cutting tools:			
1	lot dies, $1\frac{1}{2}$-in., $1\frac{3}{8}$-in., $1\frac{1}{4}$-in., $\frac{1}{2}$-in., $1\frac{1}{2}$-in., $1\frac{1}{4}$-in., 1 1-in., $1\frac{3}{4}$-in.; 1 sett taps, $\frac{1}{2}$-in., $1\frac{1}{2}$-in., $1\frac{1}{4}$-in., 1 1-in., $1\frac{1}{2}$-in., $1\frac{1}{4}$-in.; 2 Stanwood pipe-cutters; 5 common pipe-tongs; 2 stocks for dies, (for $\frac{1}{4}$-in. to 2-in.)			
1	patchett, 4.00; 5 monkey-wrenches	3 75		7 75
237	1 old steam-gauge, 1.00; 1 sett steel figures	10 00		11 00
5	mandrilla	1 00		5 00
1	steel square, 1.25; 3 hoze-nozzles	1 50		2 75
2	patent-top wrench-holders	2 50		5 00
	Forward			118,991 49
	Round-house:			
1	directors' car, without furniture			6,500 00
1	locomotive engine & tender—Switch No. 15			9,165 00
1	" " " " Alabama No. 3			9,844 00
1	" " " " J. C. Stanton, No. 17			10,250 00
1	" " " " Georgia, No. 9			10,022 00
1	" " " " H. M. Smith, No. 18			10,687 00
1	" " " " Massachusetts, No. 4			9,844 00
1	" " " " Robert Crarath, No. 14			10,575 00
1	" " " " (burned out,) No. 6			2,000 00
3	monkey-wrenches	75		2 25
1	portable forge			25 00
1	straightening anvil			35 00
3	kegs bridge-spike	12 00		36 00
1	portable forge frame			10 00
1	ladder			5 00
51	kegs spikes, 7,650 lbs	04½		344 25
1	bench			4 00
2	vises	25 00		50 00
1	face-plate			28 00
1	bench			15 00
3	hydraulic jacks	40 00		120 00
250	lbs. waste	12½		31 25
1	face-plate			25 00
1	bench and vise { 25.00 / 15.00 }			40 00
3	stoves and pipe			30 00

1 bench and vise	{ 25.00 / 8.00 }		30 00
238, 239 60 lbs. old brass		.15	9 00
51 lbs. " files		.05	2 55
52 lbs. " steel chisels		.40	20 80
Forward			198,738 59
Round-house—Continued:			
3 soft hammers		1 00	3 00
3 chipping "		.50	1 50
2 setts clamps, 80 lbs.		.08	6 40
1 engine house ladder			2 50
Articles in car No. 1007, on track:			
Lot railroad tools, &c., consisting of portion of brick machine; 1 centrifugal pump & pipe; 30 ft. old hose; lot old rope; 1 old cook-stove; lot old picks, shovels, &c., estimated value			100 00
Tin, coppersmith's shop:			
1 sheet-iron punch			35 00
1 bellows			35 00
200 bush. coke—poor			10 00
Oil-room, round-house:			
20 galls. head-light oil		.60	12 00
8 " lard-oil		.80	6 40
15 " Backus engine-oil		1 00	15 00
20 " hd-light oil		.60	12 00
8 " Backus engine-oil		1 00	8 00
30 " lard-oil		.80	24 00
6 corrugated iron oil-cars & pumps	18 00		108 00
1 bulletin-board			4 00
240 1 stove & pipe			6 00
1 clock			5 00
1 pr. scales			8 00
1 table			5 00
50 lbs. tallow, 10			5 00
Forward			199,150 39
In yard:			
127 single-plate 33-in. car-wheels		18 00	2,286 00
20 prs. wheels and axles	25 00		500 00
2 old 28-in. wheels		9 00 pr	9 00
1 new steel fire " Moore elastic" wheel			65 00
3 hand-car wheels		5 00	15 00
2 chilled tires		50 00	100 00
7 patent head-blocks		15 00	105 00
1 Woods patent frog			75 00
1 pr. dump-car wheels & axles			20 00
2 stoves	4 00–3 00		7 00
2 fire-extinguishers	250 00		500 00
1 screw-jack			15 00
1 switch-stand			12 00
1 sett rollers for blacksmith-shop			25 00

	1 bolt-header and dies		100 00
	1 sledge-block & 1 stake-anvil		36 00
	1 small platform-scale		10 00
	1,642 lbs. anvils	12½	208 25
	1 straightening plate		65 00
	2 water-buckets	25	50
	3 dump-car frames	2 00	6 00
	8 prs. 28 in. wheels & axles	40 00	320 00
	1 locomotive tender-tank		50 00
	1 pr. tender wheels & axles		25 00
	2 pr. engine-truck wheels & axles	30 00	60 00
241	1 turn-tables		1,600 00
	1 plow, 10.00; 2 scrapers, 10.00		20 00
	Shed in yard:		
	15 recis (more or less) manila rope & 1 lot blocks		100 00
	3 M ft. poplar sheeting, 36.00; lot ash brands, say 2 M		60 00
	Lot white-pine lumber, say 1½ M, 67.00; 23 brls. Coeva paint		182 50
	16 brls. plaster paris, 80.00; 2 crabs, 30.00		110 00
	Forward		205,837 64
	Drain-pipe in yard:		
	10 elbows, 2 ft.x5½ inches	27½	2 75
	22 connections, 2 ft.x5½ "	27½	6 05
	43 joints pipe, 5½ "	27½	11 83
	13 connections, 15 "	82½	10 72
	1 " 12 "		60
	5 " 9 "	45	2 25
	200 joints pipe, 3 "	15	30 00
	23 connections, 3 "	15	3 45
	Freight, above 1 ton, 45 c. per 100 lb		9 00
	Fixtures on directors' car:		
	1 lounge		15 00
	2 chairs	2 50	5 00
	1 wash-bowl, pitcher, soup-dish & ewer, private property		10 00
	8 spittoons	1 00	8 00
	8 mattrasses	20 00	160 00
	1 stove		15 00
	1 pr. steps		2 00
	1 water-cooler		4 00
	3 buckets	25	75
	1 dust-pan		20
	1 feather duster		75
	3 new brasses, 24 lbs	35	8 70
242	1 wash-stand, private property		0 00
	Forward		206,133 69
	Scrap-castings in yard:		
South of track.	2,500 lbs. turn-table wheels & old pumps	01¼	31 25
	1,200 lbs. old frogs	01¼	15 00
	500 lbs. " "	01¼	6 25
	160 lbs. " bolt-header (near bl'ksmith's shop)	01¼	2 00
	900 lbs. " truck-frames, (between shops)	01½	13 50

	Outside machine-shop, east side:		
24,719 lbs.	new car & engine castings	04½	1,050 55
2,700 lbs.	cast scrap-iron	01½	33 75
2,103 lbs.	wrought "	01½	31 54
6,343 lbs.	new car & engine work	04½	269 57
1,658 lbs.	links & pins	08	132 64
172 lbs.	engine-chain	12½	21 50
6 lbs.	new brass	35	2 10
1,034 lbs.	pass. car-truck springs, 2 sets 4 springs	18	186 12
358 lbs.	tender-springs, 1 " 2 "	18	64 44
486 lbs.	" " 1 " 2 "	18	87 48
400 lbs.	" " old 2 " 4 "	12½	50 00
318 lbs.	engine-driver springs, 3 " "	10	31 80
316 lbs.	pass. coach side-rearing springs, 6 "	18	56 88
4	wrought equalizing-beams, 115 "	14	16 10
	Forward		208,236 16
	Articles in yard—Continued:		
3	Wood's pat. frogs, new	80 00	240 00
3	cart-bodies	2 00	6 00
1	timber-buggy		2 50
100	fts. 1-in. rubber hose	21¼	21 25
100	" 2 " " "	48	48 00
	West room tool-house, opposite pass. depot:		
	51 old shovels	20	10 20
243	64 old picks	25	16 00
	30 " tamping picks	50	15 00
34	old pick-handles	05	1 70
49	" mattocks	20	9 80
400	lbs. scrap-iron & old bolts	01½	6 00
2	pairs rock-grabs	5 00	10 00
1	small anvil, 96 lbs	12½	12 00
300	lbs. draw bars, bolts, & old clamps	08	24 00
100	lbs. tongs and wrenches	08	8 00
3	spike-hammers, old	1 00	3 00
5	steel jumpers, "	80	4 00
6	old clavers	20	1 20
6	" hammers		50
1	lot old shovels, say 50, no value		0 00
2	track-jacks	8 00	16 00
	Forward		208,691 31
	East room tool-house, opposite pass. depot—Con.:		
68	brls. cement	4 00	272 00
25	old shovels	10	2 50
5	" wood-stoves	3 00	15 00
1	mess-chest		3 00
1	pat. stove & boiler		20 00
1	lot Manilla rope, 15 lbs	10	1 50
6	new pane	1 00	6 00
8	old "	12½	1 00
7	tin covers	12½	87
1	blue chest		2 50
1	ox yoke and bows		1 50
1	tea-kettle		30
24	tents, old, worthless	1 20	28 80

17½	brls. cement	4 00		70 50
5	ox yokes and bows	1 50		7 00
244	3 double-trees—old	50		1 50
	3 single " "	25		75
1	breast "			75
1	iron scraper (cast)			8 00
1	old cook-stove			3 00
30	kegs 6 x ⅝ wrought bridge-spikes, 6,000 lbs	06		360 00
1	old cast-iron sledge			1 00
1	spiking-maul, old			1 00
1	old sledge-hammer			1 00
1	cast-steel "			5 00
	Middle room:			
1	lot ass'd chains, 341 lbs	08		27 28
1	grab-chain			10 00
3	cross-cut saws	3 00		9 00
23	boxes axle-grease	16		3 68
3	ox yokes and bows	5 00		15 00
2	" bows, extra	20		40
	Forward			209, 571 14
	Middle room tool-house—Continued:			
8	steel hammers	5 00		40 00
1	cold-chisel			1 00
835	lbs. cast steel—old drills, &c	17		141 95
1,195	lbs. pinch and claw bars	06		71 70
333	lbs. old scrap-iron	01½		3 49
1	old shaft & crank for grab			1 50
1	sledge-hammer			1 00
1	cast-steel stone-hammer			3 00
2	" " " masons' hammers	1 00		2 00
1	steel-finishing hammer			3 00
4	old bl'ksmith & stone hammers			75
2	augers	25		50
7	old chopping-axes	25		1 75
245	4 new picks	50		2 00
1	tripod			50
1	tin pan & basket			50
½	doz. pick-handles			30
1	pay-roll case			1 00
1	pr. counter-scales & weights			4 00
1	tea-pot			30
1	mess-chest & contents			5 00
5	rolls 500 ft. fase	5 00	roll	25 00
1	old cast-steel hammer			2 00
2	single 1½ in. blocks; 1 double dr			12 00
5½	prs. wheel-harness	12 00	pr.	66 00
4	" lead "	12 00	"	48 00
2	" cart "	5 00	"	10 00
1	wagon-saddle			3 00
9	halter-chains	25		2
9	breast "	25		2 25
1	pr. grabs			3 00
1	back-band & hip-strap			2 00
	Forward			210, 031 88

Tool-house, opposite pass. depot—Continued:

	¼ keg nails			1 00
	10 halters and chains		.25	2 50
	1 fifth "			1 50
	1½ pr. trace "			30
	30 old collars		.50	15 00
	3 new "		1 00	3 00
	1 gall. can			25
	9 extra bridle'		.50	4 50
	Miscellaneous:			
	1 monkey-wrench			75
	250 bush. coal in car on track		.12	30 00
246	300 ft. old sills, near track		8 00 M	40
	13 old shovels in tool-chest, between tracks		.05	65
5	" picks " " " " "		.25	1 25
1	tool-chest			3 00
200	lbs. old scrap-iron " " "		.01½	3 00
	Forward			210,100 98
	Machine-shop tools, &c.:			
3	10 in. hf. round 2d cut files		6 50 doz.	1 63
1½	doz. 6 in. square bastard-cut files		6 50 "	9 75
½	" 8 " round " " "		6 50 "	3 25
1-12	" " 2d " " "			54
1	hack-saw & frame			1 75
1	emery-box			50
15	lathe-draws			15 00
245	lbs. machine-shop mandrills		.06	14 70
231	lbs. scrap-brass		.15	34 65
75	lbs. new brass		.35	26 25
173	lbs. bolts & nuts, new		.08	13 84
237	lbs. car-work		.08	26 96
165	lbs. smoke-stack iron		.06	9 90
54	lbs. bolts, ass'd		.06	3 24
3	in. elbows		.20	60
108	lbs. fish-bar bolts, scrap		.02	2 16
134	lbs. bolts and nuts, ass'd		.08	10 72
224	lbs. clamp iron		.06	13 44
598	lbs. m's shop-tools		.10	59 80
2,959	lbs. wrought scrap		.01½	29 38
4,241	lbs. car-castings, new		.04⅜	186 55
685	lbs. wrist-rim castings		.04¼	29 11
152	lbs. wrought screws		.15	22 80
2	hf. elleptic springs		5 00	10 00
150	lbs. old nuts, ass'd		.04	6 00
2,391	lbs. new " "		.08	191 28
247	1,144 lbs. new nuts, hexagon		.10	114 40
5	monkey-wrenches		.75	3 75
3	chicken-hammers			1 00
242	lbs. wro't clamps and wrenches, 24.20; 387 lbs. wro't pinch bars, 27.09			51 29
1,780	lbs. engine-springs, 15 springs, 4¼c., 71.40; 1832 40-1680 lbs. grate-bars, 21 bars, 4¼c.			391 80
10	lbs. ¾ grass rope, 1.50; 200 lbs. wro't scrap, 3.00			4 50
	Forward			211,390 52

	Machine car-shop:		
166	lbs. cast washers	04¼	7 06
139	lbs. log-screws	12½	17 36
175	lbs. car-work, ass'd	08	14 00
2	hf. elliptic springs	5 00	10 00
20	lbs. tools	08	1 60
76	lbs. scrap-brass	15	11 40
12	lbs. good "	35	4 20
	Blacksmith-shop tools—Continued:		
9	new picks, poor	50	4 50
95	lbs. spring steel	12½	11 87
87	lbs. engine-springs	12½	10 87
267	lbs. new chain	12½	33 37
433	lbs. wrought iron	04½	19 48
4	2 ft., iron square, bad order	25	1 00
101	lbs. steel hammers	30	30 30
32	lbs. " cleavers	30	9 60
880	lbs. cast steel, ass'd	16	140 80
124	lbs. sledge-hammers	25	31 00
592	lbs. tops, sledges, chisels, & handles	10	59 20
106	lbs. fire-tools	10	10 60
450	lbs. bottom sledges	18	81 00
573	lbs. tongs	10	57 30
125	lbs. old picks & scraps	01½	1 87
248 1,374	lbs. scrap-iron	01½	20 61
623	lbs iron, good	08	49 84
267	lbs. punches & heading-tools	12½	33 37
	Forward		212,062 72
	Iron in car-shops—Continued:		
5,047	lbs. car-work, new	08	403 76
576	lbs. old picks	01½	8 64
695	lbs. scrap-iron	01½	10 42
218	lbs. claw & pinch bars	08	17 44
59	lbs. wrought washers, ass'd	12½	7 37
209	lbs. old nuts	04	8 36
418	lbs. pat. draw-bars	08	33 46
2,747	lbs. new castings	04¼	116 74
215	scrap-castings	01¼	2 68
4	cases patent roofing	25 00 eac.	100 00
11	hf elliptic springs	5 00 "	55 00
9	Hubbards' bearings	4 25	38 25
1	sett 1st-class car seats & backs		800 00
5	2nd " " "	15 00	75 50
3	engine oil-boxes	3 00	9 00
	Lumber in car-shops:		
1,500	ft. dressed sheeting for cars	25 00 M	37 50
200	l'ge trestles		2 00
5	l'ge trestles		8 00
19	sm'l "		14 00
8	doors for express-cars, 4 wide, 4 narrow	2 50	20 00
	Wood-work panel for platform, 2 express cars		35 00
1	sm'l grindstone		5 00
	Studding for express-car		25 00

36	ben'ts frames " "		2 50		98 00
493	ft. oak lumber for platforms, dressed		25 00	M	12 32
177	" pine " " " trucks, "		25 00	M	4 43
249	1,253 ft. pine lumber for sills, platform pass. cars		40 00	M	50 12
504	" " " " box-cars		25 00	M	12 60
2	hand-boring machine				20 00
4	racks for holding up cars 20.00; 400 lbs. cocoa paint		10 00		30 00
1	sash-cramp, 5.00; 200 gall's raw linseed oil		200 00		205 00
	Forward				214,319 81
	Belting in machine-shops, in use:				
35	ft. 10 in. leather belting		60		21 00
284⅓	" 4 " " "		20		56 87
59	" 3½ " " "		15		8 85
34⅓	" 3 " " "		15		51 20
191	" 2⅓ " " "		14		26 74
67½	" 2 " " "		12		8 10
	Wood-shop, in use:				
19	ft. 12 in. leather belting		75		14 25
382⅔	" 10 " " "		60		23 20
293⅓	" 6 " " "		30		88 90
62⅝	" 5 " " "		25		15 70
371⅔	" 4 " " "		20		74 33
120	" 3½ " " "		15		18 00
643/4	" 3 " " "		15		9 71
34	" 2½ " " "		14		4 76
26½	" 2 " " "		12		3 18
25⅜	" 1¼ " " "		12		3 08
	In waste-room:				
1½	br'ls, 390 lbs. Partridge's grease		05		19 75
100	lbs. waste		11		11 00
1	monkey-wrench				1 25
100	talc		20		20 00
1	pr. car-jacks				25 00
1	stove and pipe				3 50
200	lbs. scrap-iron		01½		3 00
	Forward				214,831 10
250	Am't bro't forward				214,831 18
	Lumber in shops & yard & lumber-yard:				
100	ft. rough lumber—near water-tank		12 00	M	1 20
5,060	" 12 in. square, R.R. track		22 00	"	111 32
10,500	" worked lumber, (more or less,) less		20 00	"	210 00
2,438	" " " truck-frames		25 00	"	60 95
136	" " " land-boards, oak		25 00	"	3 40
4,947	" " " body-bolsters, 9 pieces		25 00	"	123 67
1,250	" " " top-swing bolster		25 00	"	31 25
3,000	" loose-dressed lumber		25 00	"	75 00
250	" " "		20 00	"	5 00
1,280	" " "		20 00	"	25 60
2,480	" " " end sills		35 00	"	86 80
1,406	" " " sub "		25 00	"	35 15
300	" worked "		25 00	"	7 50

Inside shop—north end:

375	ft.	worked lumber—car suigs	25 00	M	9 37
10	prs.	box-car doors with castings	5 00	pr.	50 00
294	ft.	worked car-lumber	25 00	M	7 37
400	"	inside stripling for box-cars	20 00	"	8 00
2		hand-car frames	10 00	"	20 00
369	ft.	top plates baggage-cars	20 00	"	7 38
1,615	"	rough lumber	9 00	"	14 53
10	prs.	doors without castings	5 00	pr.	50 00
345	ft.	worked lumber	25 00	M	8 62
229	"	" " oak, truck-plates	40 00	"	9 16
986	"	" "	35 00	M	34 51
1,426	"	" " pine	25 00	M	35 65
410	"	" " oak	35 00	"	14 35
336	"	" " pine	40 00	"	13 44
1,693	"	" " sap	25 00	"	42 33
200	"	" " oak	30 00	"	6 00
1,500	"	odd " loose	12 00	"	18 00
251 750	"	dressed tank-staves	25 00	M	18 78
		Forward			215,975.48

Lumber continued—north end machine-shops:

439	ft.	rough sills—refused	9 00	M	3 95
640	"	worked lumber—refused	9 00	"	5 76
1,079	"	standards and brace	35 00	"	37 76
5,740	"	rough-framed lumber	20 00	"	114 80
481	"	worked " "	35 00	"	16 83
1,132	"	" " "	35 00	"	39 62
1,800	"	rough " "	9 00	"	16 20
2,019	"	" " " refused	9 00	"	18 17
10,000	"	" " "	22 00	"	220 00
1,155	"	" " " refused	9 00	"	10 50
4,573	"	" " "	14 00	"	64 02
9,618	"	" " "	16 00	"	153 88
3,920	"	" " "	14 00	"	54 88
2,990	"	" " "	14 00	"	41 86
3,655	"	" " "	22 00	"	80 41
1,350	"	" " " refused	9 00	"	12 15
689	"	" " "	14 00	"	9 64
4,014	"	" " "	14 00	"	56 19
3,262	"	" " "	22 00	"	71 76
6,580	"	" " "	16 00	"	105 28
360	"	" scrap " refused	5 00	"	1 80
3,145	"	" framing "	16 00	"	50 32
730	"	" "	16 00	"	11 68
1,458	"	" " "	16 00	"	23 32
8,260	"	" " "	22 00	"	181 72
8,778	"	" " "	16 00	"	140 44
996	"	" " "	16 00	"	15 93
3,960	"	" " "	16 00	"	63 36
1,950	"	" " "	16 00	"	31 20

252 Dry house:

17,696	ft.	rough sheeting	16 00	M	283 13
		Forward			217,912 04

Lumber-yard:

8,000	ft.	rough sheeting	16 00	M	128 00
2,092	"	" framing lumber refused	9 00	"	18 83
100	"	" scrap " "	5 00	"	50
719	"	" framing " "	14 00	"	11 08
4,014	"	" " " "	14 00	"	56 19
822	"	dressed car-flooring	25 00	"	20 55
1,750	"	rough blk. walnut plank	35 00	"	61 25
2,350	"	" ash	30 00	"	70 50
4,320	"	" framing oak	14 00	"	60 48
3,959	"	" " lumber	16 00	"	63 33
37,875	"	" " mixed	13 00	"	492 37
16,238	"	" "	18 00	"	292 28
1,152	"	" square oak "	22 00	"	25 34
1,275	"	" framing " refused	12 00	"	15 30
2,500	"	" scrap " "	5 00	"	12 50
7,000	"	" mixed "	12 00	"	84 00
3,688	"	" framing "	16 00	"	49 40
800	"	" " "	14 00	"	11 20
700	"	" blk. walnut framing	35 00	"	24 50
300	"	" scrap framing	5 00	"	1 50
1,000	"	" blk. walnut "	35 00	"	35 00
3,000	"	" " " "	40 00	"	120 00
2,000	"	" scrap "	5 00	"	10 00
2,000	"	" walnut ash	25 00	"	55 00
5,875	"	worked flooring	30 00	"	176 25
500	"	rough poplar lumber	18 00	"	9 00
2,670	"	" walnut "	40 00	"	106 80
336	"	" pine "	14 00	"	4 70
253	3,000	ft. rough blk. walnut	40 00	M	120 00
	2,000	" " ash "	30 00	"	60 00
700	"	" walnut "	40 00	"	28 00
700	"	" ash "	30 00	"	21 00
		Forward			220,151 89

Lumber-yard—Continued:

600	ft.	rough pine lumber	16 00	M	9 60
1,000	"	worked scrap "	5 00	"	5 00
1,480	"	rough sheeting "	18 00	"	26 64
400	"	scrap "	5 00	"	2 00
3,143	"	rough framing "	30 00	"	94 29
3,853	"	" " "	14 00	"	53 94
8,470	"	" " "	14 00	"	118 58
2,596	"	" " "	14 00	"	36 34
300	"	" mixed "	12 00	"	3 60
11,742	"	" framing "	30 00	"	352 26
6,824	"	" " "	14 00	"	95 53
3,299	"	" " "	14 00	"	46 18
10,189	"	" " "	14 00	"	142 64
21,340	"	" " "	18 00	"	384 12
3,954	"	" " "	16 00	"	63 26
5,507	"	" " "	14 00	"	77 09
3,240	"	" " " refused	7 00	"	22 68
3,290	"	" " "	16 00	"	52 64
200	"	blocks	5 00	"	1 00

800	" scraps lumber	5 00	"	4 00
3,640	" rough framing lumber, oak	22 00	"	80 08
3,980	" " oak " " refused	10 00	"	39 80
500	" " pine " "	14 00	"	7 00
1,000	" " scraps "	5 00	"	5 00
1,574	" " framing "	14 00	"	22 03
4,420	" " " "	16 00	"	70 72
254	Lot old worn-out wheelbarrows, 250, e., 05			12 50
	75 (estimated) old oil brls., 05			3 75
	Forward			221,984 16
	Lumber for new passenger-depot, on ground:			
250	ft. worked braces	25 00	M	13 00
1,633	" dressed lumber	25 00	"	40 82
1,719	" "	25 00	"	42 97
6,068	" "	20 00	"	121 36
128	" "	20 00	"	2 56
1,207	" framed lumber, with bolts	35 00		42 24
176	" worked "	25 00	"	4 40
864	" scrap blocks	5 00	"	10 50
1	old derrick frame, in parts			5 00
7,093	ft. dressed lumber	25 00	M	176 32
864	" " "	25 00	"	21 60
899	" blocks	15 00	"	13 33
275	" dressed flooring	20 00	"	5 50
1	old work-bench, without screw			2 00
2,369	in. wrought press rods	06		142 14
1,516	ft. worked braces	25 00	M	37 90
1,040	" " "	25 00	"	26 00
2,983	" " posts	25 00	"	74 57
433	" " "	25 00	"	10 82
720	" " "	25 00	"	18 00
300	" rough plank	15 00	"	4 50
2,880	" partly-dressed lumber	20 00	"	57 60
1,418	" worked " with bolts	35 00	"	49 63
1,093	" dressed braces	25 00	"	27 32
10,560	" rough lumber	15 00	"	158 40
867	" dressed "	25 00	"	21 67
1,560	" rough "	20 00	"	31 20
867	" " "	20 00	"	17 34
255	320 ft. worked lumber	25 00	M	8 00
869	" dressed "	25 00	"	21 72
1,440	" " "	25 00	"	36 00
3,621	" rough "	15 00	"	54 31
	Forward			223,304 48
	Lumber for new passenger-depot, on ground—(continued:)			
3,583	ft. rough lumber	20 00	M	71 66
15,655	" " "	17 00	"	266 13
8,046	" " "	16 00	"	128 73
455	" sheeting	10 00	"	4 55
1,500	" rough-edged lumber	10 00	"	15 00
2,886	" " "	16 00	"	46 17
4,020	" ground-posts	25 00	"	100 50

3,220	" lumber	20 00 "		64 40
6,720	" dressed lumber	20 00 "		134 40
3,869	" dressed lumber	25 00 "		96 72
2	derrick frames, (l'ge)	10 00 "		20 00
1,583	ft. worked lumber	25 00 M		39 57
720	" blocks	5 00 "		3 60
1	old warehouse truck			2 00
	Carpenters' building near new depot:			
3	fr. work-benches	3 00		9 00
570	fr. bolts and nets in box	10		57 00
884	in. wrought plates	8		70 72
1,729	in. nets, bolts, &c	10		172 90
85	in. wrought washers, 1-in	15		14 25
102	in. cast "	4½		4 59
40	in. ass'd nails	5		2 00
37	in. roof-washers, (Burr's)	20		7 40
2	hand boring-machines & 4 belts	10	ea.	20 00
2	cross-cut saws	3 00		6 00
1,344	ft. dressed & worked lumber	30 00 M		40 32
256 178	ft. dressed lumber	20 00 M		3 56
1	old oil-can			20
	Forward			224,705 85

1 railroad-office building.
1 freight-depot & platform.
1 passenger-depot & platform.
1 round-house & turn-table.
1 machine-shop & office.
1 car-shop.
1 store-house for shops.
1 blacksmith-shop.
1 boiler in machine-shop.
1 sand-house, 1 stable.
1 dry-house boiler & fixtures, (for lumber.)
1 store-house, near passenger depot.
1 lumber shed & yard, water-tank, & coal-box.
1½ miles main track & road-bed south of Wauhatchie.
2½ miles (more or less) main & side track in Chattanooga.
1 telegraph-line from Chattanooga to Georgia State line.
1 portion of frame erected for new passenger-depot.
All water and drain pipe laid on grounds, (No. feet unknown,) Chattanooga, Tenn., Sept. 20th, 1871..... $224,705 85

We, the undersigned, Thomas Webster & Chas. H. Mills, having been duly appointed by the clerk & master in chancery, & J. H. Vanalstine, & Chas. D. Gaylord having been duly appointed by Col. J. H. Gindrat, receiver, to take an inventory of all the property belonging to the Alabama & Chattanooga Railroad Company within the jurisdiction
257 of the court, do hereby certify that the inventory herewith submitted, pages one (1) to forty-two (42) inclusive, is true and correct as to items, and the valuation thereof, amounting to the sum of two hundred and twenty-four thousand seven hundred and five dollars and eighty-five cents ($224,705$\frac{85}{100}$, is correct and just, to the best of our knowledge & belief.

The railroad track, telegraph-line, and all buildings enumerated on page forty-two we consider fixtures, (not movable,) and have not extended any estimate or valuation for same.

THOS. WEBSTER,
C. H. MILLS,
For Clerk and Master.

JAMES H. VANALSTINE,
CHAS. D. GAYLORD,
For Receiver.

Sworn to and subscribed before me the 20th of Sept., 1871.
J. H. CALDWELL, *C. & M.*,
By J. W. CLIFT, *D. C. & M.*

STATE OF TENNESSEE,
Hamilton County:

CHATTANOOGA, *22nd Sept.*, 1871.

Received of James A. Caldwell, clerk & master of the chancery court of said county, and receiver of said court in the case of John C. Stanton vs. The A. & C. R. R. Co. et als., all the property mentioned and set out in the foregoing inventory, made by agents appointed for
258 that purpose by said clerk & master and myself, valued at $224,705\frac{85}{100}$, which property is turned over to myself as receiver of said court in the case of The State of Alabama vs. The Alabama & Chattanooga R. R. Co. and creditors.

This receipt is intended to cover & embrace all the property of the Ala. & Chatta. R. R. Company within the jurisdiction of said court, except an amount not yet ascertained, which is claimed by certain creditors of said road as being levied upon by executors from other courts, which they claim have priority over all attachments issued from said chancery court.

I am responsible to said court as receiver for all of said property. The property mentioned above as being excepted in this receipt is to be appraised, and an inventory of the same made, & receipt executed therefor as soon as the same can be done.

JOHN H. GINDRAT,
Receiver A. & C. R. R.

Filed 22nd Sept. 1871.

J. A. CALDWELL, *C. & M.*

CHATTANOOGA, 22 *Sept.*, 1871.

Received of James A. Caldwell, receiver, &c., the building known as the "Master-mechanics' supply-store in shops buildings," being one of the buildings ordered to be turned over to me by the chancery court of Chattanooga.

JOHN H. GINDRAT,
Receiver, &c.

(Endorsed:) Filed 22nd Sept., 1871. J. A. Caldwell, C. & M.

259 I, J. A. Caldwell, clerk & master of the chancery court of Hamilton County, Tennessee, do hereby certify that the foregoing forty-three pages contain a true copy of an inventory of property of the A. & C. R. R. Co. taken in the case of The State of Alabama vs. The A. & C. R. R. Co. et als, and the receipts of Jno. H. Gindrat, receiver, &c., for

the same, filed 22nd Sept., 1871, as the same is now of file in my office. Witness my hand & the seal of said court at office in the city of Chattanooga, this 3rd June, 1872.

J. A. CALDWELL, *Com.*

Filed May 30, 1872.

N. W. TRIMBLE, *Clerk.*

260 *Affidavits.*

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, Charles O. Whitney, who, after having been duly sworn, says that he is forty years old, and has been acquainted with the Alabama and Chattanooga Railroad for four years; he has been connected with railroads for twenty years. When the Alabama and Chattanooga Railroad was completed, it was as good if not one of the best railroads in the United States; has been over the said road many times since its seizure by the State of Alabama; saw rolling-stock of all kinds lying in ditches, without the least attention or attempt at recovery; road-bed in bad order as well as track; lumber and material for depots are being seized by officers and sold without any apparent objection from custodians and officers of the State; supplies of
261 all kinds stolen, destroyed, carried away, or sold; no one seems to have the said road in charge, but it is run by a mixed lot of officers, who seem to have no control; trains have been run and are still being run by drunken engineers, firemen, and brakemen, at the great danger of lives and property, &c., &c.

I beg leave to submit the report of the committee of the senate of the State of Alabama, made at Montgomery while in session, of which I had the honor to be its chairman, as a part of this affidavit, and hereunto attached and marked "Exhibit A."

CHAS. O. WHITNEY.

Said Alabama and Chattanooga Railroad was sold under decree in bankruptcy, in Montgomery, Alabama, on the 22nd day of April, 1872; I was present at such sale and bid three hundred and eleven thousand dollars, (in addition to the claims of the State of Alabama;) Gov. Lind-
say bid three hundred and twelve thousand dollars, and the
262 road was sold to him for the State of Alabama. I was a member of the State senate of Alabama at the time of the passage of the act authorizing the governor to bid for certain railroads in case of their sale. Said act is in the following words:

"That in any case where it shall be necessary, under judicial process issuing from any of the courts of the United States, to sell any railroad of this State, either in whole or in part, for which the State is or may become liable on account of having endorsed or issued bonds in aid of the construction of such road, the governor is hereby authorized to bid for such road, at any such sale, to the full extent of the liability of the State so contracted; and, if the State shall become the purchaser, to resell the same for the amount of such liability, including principal and interest, retaining the title until the purchase-money shall be paid, and taking such further security for its payment as may be necessary."

263 I am sure that the senate never intended to authorize the governor to bid more than the liability of the State; neither do I think said recited act gives any such authority.

CHAS. O. WHITNEY.

Sworn to and subscribed before me this 18th day of May, 1872.

J. M. JOHNSON,
U. S. Commissioner, District East Tennessee.

UNITED STATES OF AMERICA,
District of East Tennessee:

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the district of East Tennessee, William R. Carlile, who, being duly sworn, says he is a resident of Chattanooga, Hamilton County, Tennessee; is twenty-eight years of age, and has been acquainted with the affairs of the Alabama and Chattanooga Railroad for the past two or three years; that the majority of the men placed in charge of said road and its
264 property by the receiver appointed by the governor of Alabama, from general superintendent down, were worthless and incompetent, and have damaged the road and its property by the reckless way in which they run the road and pilfered and destroyed its property to the amount of over a million of dollars. Deponent further says that a large amount of car-wheels, car-axles, railroad supplies, &c., were sold at various times by sheriffs, constables, &c., on executions from State courts, of justices of the peace, &c., and at such sales the property was invariably sacrificed, and made regardless of the protest of trustees of the bondholders, under mortgages duly recorded in the several counties through which the road passes. Deponent further says that a sale of valuable property is advertised to take place June 10, 1872, as per Exhibit A, hereto attached, said exhibit being cut from the Chattanooga Daily Herald of May 19, 1872, regardless of the rights of bondholders and creditors and assignees in bankruptcy, said road having been
265 adjudged a bankrupt some months since in the United States district court for the middle district of Alabama.

WILLIAM R. CARLILE.

EXHIBIT A.

State of Tennessee, chancery court at Chattanooga.

STATE OF ALABAMA
v.
THE ALABAMA AND CHATTANOOGA RAILroad Company et als. } Petition of J. G. Southard et als.

In obedience to an order of the chancellor, made under said petition, on the 17th day of May inst., I will, on Monday, 10th of June, 1872, upon the premises, at and near the machine-shops of the Alabama and Chattanooga Railroad Company, in Chattanooga, Hamilton County, Tennessee, continuing the sale from day to day until completed, expose to sale, to the highest bidder, requiring cash in hand for all purchases of twenty-five dollars or less sums, and notes bearing interest from date with two or more good and undoubted sureties for the purchase-money where the purchases exceed twenty-five dollars, the following
266 property, to wit: A large lot of material for building and repairing cars, including lamps, springs, chairs, fixtures, &c.; a lot of iron, oil, varnishes, paints, tools for mechanics, nails, screws, bar-steel, files, car blinds, wheels, axles, &c.; a fine lot of lumber, harness, &c.; including all the property heretofore levied upon and advertised for sale on the 9th and 15th days of February, 1872, by F. M. Gardenhire,

T. G. Rawlston, and Morgan Fryar, constables of said county, to satisfy said judgments in favor of petitioner and others against the Alabama and Chattanooga Railroad Company, and minutely described in said advertisements.

This 17th of May, 1872.

J. A. CALDWELL, *C. & M.*

Sworn to and subscribed before me this 20th day of May, 1872.

J. M. JOHNSON,
U. S. Commissioner, District East Tennessee.

Personally appeared before me, J. M. Johnson, a commissioner
267 appointed by the circuit court of the United States of America for the eastern district of Tennessee, Seth Hopkins, of Chattanooga, State of Tennessee, who, after having been duly sworn, says that he is fifty-one years old, and has been railroading for twenty-eight years, and has been acquainted with the Alabama and Chattanooga Railroad since the beginning of the construction thereof to the present time. The said road is 295 miles long, and when it was completed was as good if not one of the best roads in the Southern States. The company had on hand, at the time of seizure, a surplus of railroad-iron sufficient to lay track for a distance of three or four miles, and fish-bars, bolts, and spikes sufficient for ten miles of line, and since the time of seizure of said road by the State of Alabama, said iron, fish-bars, spikes, &c., have been sold to the damage of said road to the amount of forty thou-
sand dollars, all of which has been done regardless of the rights
268 of bondholders and general creditors. Locomotives, cars, and supplies of all kinds are being wasted, worn out, and destroyed, and a large amount of railroad property and supplies, consisting of lumber and bolts for passenger depot, in value fifteen thousand dollars, sold on execution from justice of the peace court for eight hundred and one dollars and fifty cents. He further states that, in his opinion, the said railroad is not worth more than one-half its value that it was when seized by the State of Alabama.

SETH HOPKINS.

Sworn to and subscribed before me this 18th day of May, 1872.

J. M. JOHNSON,
U. S. Commissioner, District East Tennessee.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the
eastern district of Tennessee, George M. Whitney, of Chatta-
269 nooga, Tennessee, who, after having been duly sworn, says that he is twenty-six years old, and has been railroading for ten years, and has been acquainted with the Alabama and Chattanooga Railroad between two and three years; is an engineer by profession; has been over the line of said railroad several times since the State of Alabama seized the road, and at the time of its seizure the Alabama and Chattanooga Railroad was one of the best roads in the southern country; has travelled over and examined many other railroads in the Southern States; has traveled over and examined the Alabama and Chattanooga Railroad frequently before the seizure thereof by the said State of Alabama. He further says that since said seizure by said State, conductors and other train-men have taken possession of and run trains regardless of general officers supposed to have been appointed by said

State of Alabama; said conductors and other train-men ran trains, collected fare, and divided the receipts among themselves. This
270 they continued so long as locomotives were in condition to run. All train-attachés were more or less drunk, and, in fact, trains were run by a drunken mob. Several locomotives were ditched and remained so for a long time. A number of passenger-cars were also ditched, all from neglect and carelessness of men who had them in charge. He further states that the said railroad, if sold now, would not bring more than one-half its value at the time of its seizure by the State of Alabama.

GEO. M. WHITNEY.

Sworn to and subscribed before me this 18th day of May, 1872.

J. M. JOHNSON,
U. S. Commissioner, District East Tennessee.

271 *Robert B. Lindsay, John H. Gindrat, Charles Walsh, William T. Wofford, to the creditors of the Alabama and Chattanooga Railroad Co. dr.*

For 540 tons new iron rails at $90 per ton	$48,600
120 tons old iron rails at $45 per ton	5,400
Fish-bar fastenings with nuts and bolts for seven miles.	2,500
7 derricks and rigging and tackle complete	4,200
Hammers, drills, bar-steel, fuse, and other tools and material used on construction by, say, three thousand men	15,800
2,000 wheelbarrows	4,500
8 blacksmith-shops, including forges, blacksmith tools, and material for working	2,500
Carpenters' tools	2,000
Bridge tools, ropes, tackle, and material for bridge-work.	5,000
Stoves, cooking utensils, and kitchen furniture	1,000
7 cars-tools for laying track, section-cars for carrying iron.	7,000
Tents to shelter 2,000 men	9,000
Ties, wood, nails, oil, and all kinds of supplies to operate a railroad	100,000
Amount carried forward	$207,500
272 Amount brought forw'd	$207,500
For car-wheels, car-axles, lumber, car-castings, irons for freight-car trucks, and materials for building cars	110,000
Total	$317,500

Personally appeared before me, Dan. J. Duffy, U. S. circuit court commissioner for the eastern district of Tennessee, George S. Duncan and William H. Milner, who, being duly sworn according to law, depose and say that the above is a correct inventory of property in depots, shops, and on the line of the Alabama and Chattanooga Railroad at the time that the parties named in the foregoing bill took possession of said railroad, and which has since been removed, destroyed, or otherwise disposed of while in their custody and possession.

GEO. S. DUNCAN.
WM. H. MILNER.

Sworn to and subscribed before me this June 1st, 1872.

DAN. J. DUFFY,
U. S. Commissioner.

273 Personally appeared before me, Dan. J. Duffy, United States commissioner, William George and P. J. Smith, who, being duly sworn, say that in October, 1871, they resided at Attala, Alabama, and that while the property of the Alabama and Chattanooga Railroad was in the possession of the receivers for the State of Alabama large quantities of material was stored in the round-house and station-house at Attala, and that the agents and employees of said receivers sold lard-oil, coal-oil, vice, nails, and tools, to the value of about five hundred dollars, to private parties for their personal use, said property being the property of the Alabama and Chattanooga Railroad.

P. J. SMITH.
WILLIAM GEORGE.

Sworn to and subscribed before me this June 1st, 1872.

DANIEL J. DUFFY,
U. S. Commissioner.

274 Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, James P. Stanton. After having been duly sworn, says: I am a railroad man by occupation, having an active experience of eighteen years; was assistant superintendent of construction northern division Alabama and Chattanooga Railroad, and am conversant with every feature of the road at the time it was taken control of by the State of Alabama. At this time everything connected with the road was in first-class order; the road was at this time run at the rate of 25 to 30 miles per hour with perfect safety, no accidents occurring up to that time; at the time of its seizure there was upward of 500 men employed repairing and keeping the road-bed and track in order, and tools of every character used in construction of roads sufficient for 1,600 men, with new tents for the shelter of the em-
275 ployees; there was remaining at the completion of the road 16 car-loads of new iron rails, with fish-plates, spikes, &c., necessary to lay the iron. Upon the portion of road of which I had charge the company had opened a fine coal-mine for supplying their demand, at the cost at least of $150,000, upon which the road relied for fuel, &c.; this was in complete working order, giving employment to 40 or 50 men. On the day of its seizure the road was in the above-mentioned condition; to-day the road cannot be run over 10 miles per hour with safety, and not 25 men employed in keeping up the road and track, with tools barely sufficient for their use; all the tents and nearly all the tools have been stolen and carried away since the State and bankrupt court have had possession; they were stolen and carried away onto other roads by parties whom the company did not owe one dollar; all this being known to parties controlling road, without any return being made for same. The iron which was left on the northern division has been
276 carried off and sold by the State officials of Alabama and other irresponsible parties. The rolling-stock has been run off the track by collisions occurring under the charge of drunken and incompetent men, who had previously been discharged, and said stock are now laying in the ditch alongside of the road, without any effort made to get them up and repair them. Engines have been disabled; cars have been willfully and maliciously destroyed by the said parties, and no effort has been made to prevent it by the State or bankrupt-court. The road has been run by a drunken mob whom had previously been discharged for drunkenness and incompetency. Men also were in charge

of trains who never had any experience before they took forcible possession. The above-named parties are still trying to run the road. The coal-mine has been depleted of all its appurtenances; property carried away and sold for one-twentieth of its original cost. The property at Chattanooga has been used, squandered, and sold by constables,
277 sheriffs, &c.; the frame and lumber necessary to build a large union depot, that cost $27.00 per M for the raw material, and costing, in the aggregate, $20,000, has been sacrificed for 12 to $15,000. Car-wheels and supplies are now advertised for sale, and no party has ever made any effort to prevent this sacrifice, except J. C. Stanton, a creditor and superintendent of the Alabama and Chattanooga Railroad.

JAMES P. STANTON.

Sworn to and subscribed before me this 18th day of May, 1872.

J. M. JOHNSON,
U. S. Commissioner, District East Tennessee.

UNITED STATES OF AMERICA,
Eastern District of Tennessee:

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for
278 the eastern district of Tennessee, George L. Dodge, who, being duly sworn according to law, says that he is a resident of Chattanooga, Hamilton County, Tennessee; is thirty-eight years of age, and by occupation is a carpenter; that at the time the Alabama and Chattanooga Railroad was seized by the authorities of the State of Alabama said road was constructing a union passenger-depot, say six hundred feet long and one hundred and fifty feet wide, and had all timber framed and partly raised; lumber, bolts necessary to complete same; that since said seizure in August, 1871, nearly the whole of said material has been sold by constables, &c., on executions from courts of justices of peace, and the only obstacle attempted to be thrown in way of said sale was by trustees of bondholders under mortgages duly recorded, and who protested against said sales, and deponent believes that the damages sustained by the sacrifice of property at said sales was at least thirty thousand dollars. Deponent further swears that a large
279 amount of railroad property and supplies, valued at twenty thousand dollars, is advertised for sale by the clerk and master of the chancery court of Hamilton County, Tennessee, to take place in the early part of June, 1872, regardless of rights of bondholders and general creditors; and if said sales is made the property will be sacrificed and not bring half its value in the present condition of affairs.

GEO. L. DODGE.

Sworn to and subscribed before me this 18th day of May, 1872.

J. M. JOHNSON.
U. S. Commissioner, District East Tennessee.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern division of Tennessee, Wm. Crutchfield, who, after being sworn, says he is a citizen of Chattanooga; is forty-seven years old,
280 and being a large property-holder, has been largely interested in railroads and other enterprises in this section; that he has been deeply interested in the building and completion of the Alabama and Chattanooga Railroad, inasmuch as it is one of the best great arteries from the North to the southern seaboard, and the destined route of the great

southern mail. He further says that since its seizure by the State of Alabama, corruption and fraud have characterized its management, its usefulness as a public thoroughfare has been entirely destroyed by parties whose only interest for the past year has been to fill their own pockets, to the immense damage of the owners and builders of the road; and from his knowledge of the route through which it passes, and the completeness of its rolling-stock, if the owners and builders of the road could have retained the same, not only the interest to the State would have been met, but the floating debt ere this would have been
281 largely obliterated; and that is a stain upon any State that will allow so magnificent an enterprise to be lost to the honest people of so large extent of country, to subsidize the few that have had charge of so great a work until its entire ruin is so nearly accomplished.

W. CRUTCHFIELD.

Sworn to and subscribed before me this 18th day of May, 1872.

J. M. JOHNSON,
U. S. Commissioner, District East Tennessee.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern division of Tennessee, S. H. Corey, who, after being sworn, states tha the is a member of the firm of W. Crutchfield & Co., wholesale dealers in general merchandise, and doing business in Chattanooga, Tennessee, and that the business of the house has been largely on the line of the A. & C. R. R., and that he is personally known
282 to most of the merchants between Chattanooga and Tuscaloosa, Alabama, and that the feeling of one and all is, and has been for the past year, that the seizure of that road by the State of Alabama was greatly detrimental to the interests of merchants and farmers on the line, for these reasons, that the receiver for the State has never run the road in the interest of the people; that no regularity has been had in the running of trains; that more than double freight has been charged on merchandise, and goods detained sometimes for weeks after shipment thus damaging and bankrupting many merchants and shippers. He further states that for the past year the road has been managed in the interest of no one but the receiver and officers under him, and for the further benefit of him and them the rolling stock, as fast as injured, was laid up, as they knew that their tenure of office was short and would not expend funds to repair the same; and at this time the entire
283 stock of the road is not one-fourth the capacity as at the time of seizure by the State—thus destroying the property of those who built and own the road to an immense amount, for when the road was completed and trains ran regularly, carrying the U. S. mails, there was no road radiating from this point that ran as fine cars and locomotives as did the Alabama and Chattanooga Railroad.

And he further says that at different times the moveable property belonging to the A. & C. R. R. Co. has been sold by sheriffs and constables, and no steps have been taken to prevent the same by the receiver nor his agents; and an agent of the receiver has attempted to make sale of property belonging to the road, to be delivered at night. This he has seen in an affidavit made recently before the chancellor in this city.

S. H. COREY.

Sworn to and subscribed before me this 18th day of May, 1872.

J. M. JOHNSON,
U. S. Commissioner, Dist. East Tennessee.

284 UNITED STATES OF AMERICA,
District of East Tennessee:

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the district of East Tennessee, B. F. Gardner, who, being duly sworn, says: I have been acquainted with the Alabama and Chattanooga Railroad from its commencement up to this time. At its completion it was in first-class order, with new engines, cars, supplies of all kinds, and everything necessary to do a first-class business. Since its seizure by the State of Alabama the property has been stolen, recklessly used, and destroyed, until now it will not sell for one-half the money it would the day the State of Alabama took control of it. There is no responsible party operating it, but it is controlled by disaffected employees; trains are thrown off and allowed to remain in the ditch until they are almost worthless; iron rails have been sold, hand-cars destroyed, and
285 every day the property is depreciating in value. The bankruptcy I believe to be under the control of the governor of Alabama, and neither the assignees or the agents of the State have ever made any effort to prevent the sale or other disposition of said property, to my knowledge. The equipping and opening of the Eureka coal-mines by the company at a large cost, for the purpose of supplying their engines, &c., is now entirely stripped of all its appurtenances, and no one has been benefitted by the act. There has been considerable property sold by the different sheriffs, which brought only a small part of their original cost, and I have never known any one to protest against these sales except J. C. Stanton, a creditor, and superintendent of the Alabama and Chattanooga Railroad Company.

B. F. GARDNER.

Sworn to and subscribed before me this 18th day of May, 1872.

J. M. JOHNSON,
U. S. Commissioner, District of East Tennessee.

286 UNITED STATES OF AMERICA,
District of East Tennessee:

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, George S. Duncan, of Chattanooga, Hamilton County, Tennessee, who, being duly sworn, says he is twenty-six years of age, and has been railroading for the past five years; that at the time the Alabama and Chattanooga Railroad was seized by the authorities of the State of Alabama, in August, 1871, there was a surplus of some four miles of railroad-iron, and ten miles of fish-bars and bolts, all new, and being and lying on the southern division of said railroad; that all of said property was run off and sold, greatly to the damage of said railroad, say forty thousand dollars, and also to the damage of the bondholders under mortgage duly recorded. Deponent further says that a sale of valuable property is advertised to take place
287 on June 10, 1872, as per Exhibit A, hereto attached, said exhibit being cut from the "Chattanooga Daily Times" of May 19, 1872; said property is worth at least twenty thousand dollars, and if sale takes place, said property will be sacrificed—all of which will be to the great damage of bondholders and general creditors. Deponent further says, that at the time of the seizure of the A. & C. R. R. by the State of Alabama, there was stored in buildings at Black Warrior River miscellaneous property worth at least ten thousand dollars, ($10,000,) and

some two hundred thousand brick, worth at least thirty-five hundred dollars, all belonging to said A. & C. R. R., and which has been run off, sold, and stolen by the parties in charge of said road, placed in position by the authorities of the State of Alabama, regardless of the rights of bondholders and creditors. Deponent further says, that while Alabama was in possession, or pretended possession, of the prop-
288 erty belonging to the A. & C. R. R., there was over five hundred dollars' worth of miscellaneous property and railroad supplies stolen in one night from a building near the depot in Chattanooga, Tenn., and he notified the officer or representative of Alabama in charge of the same, with the name of the party stealing same, but no attempt was made to obtain the property or punish the thief.

GEO. S. DUNCAN.

EXHIBIT A.

[Cut from Chattanooga Daily Times.]

State of Tennessee, chancery court at Chattanooga.

STATE OF ALABAMA
v.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

Petition of J. G. Southard et als.

In obedience to an order of the chancellor, made under said petition, on the 17th day of May inst., I will on Monday, 10th of June, 1872, upon the premises, at and near the machine-shops of the Alabama and Chat-
289 tanooga Railroad Company, in Chattanooga, Hamilton County, Tennessee, continuing the sale from from day to day until completed, expose to sale, to the highest bidder, requiring cash in hand for all purchases of twenty-five dollars or less sums, and notes bearing interest from date, with two or more good and undoubted sureties for the purchase-money where the purchases exceed twenty-five dollars, the following property to wit: A large lot of material for building and repairing cars, including lamps, springs, chains, fixtures, &c., a lot of iron, oils, varnishes, paints, tools for mechanics, nails, screws, bar-steel, files, car-blinds, wheels, axles, &c., a fine lot of lumber, harness, &c., including all the property heretofore levied upon and advertised for sale on the 9th and 15th days of February, 1872, by F. M. Gardenhire, T. G. Rawlston, and Morgan Fryar, constables of said county, to satisfy certain judgments in favor of petitioner and others against the Alabama and Chattanooga Railroad Company, and minutely described in said advertisements.

J. A. CALDWELL,
C. & M.

This 17th of May, 1872.

290 Sworn to and subscribed before me this 20th day of May, 1872.

J. M. JOHNSON,
U. S. Commissioner, District East Tennessee.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the eastern district of Tennessee, Thos

J. Carlisle, a resident of Chattanooga, Tennessee; after having been duly sworn, says that he is a member of the firm of Chapman, Foster & Co., proprietors of the Lookout Flour-Mills of Chattanooga, who are the shippers of large quantities of freights; that previous to his connection with this firm he had been the secretary and purchasing-agent of the Alabama and Chattanooga Railroad Company, at Chattanooga, from the time the road was commenced up to about *to about* October,
1871; that his position enabled him to become, as he did become,
291 entirely familiar with all the business and the condition of the said railroad. He further says that the rails of said railroad were connected from one end to the other, between Chattanooga, Tennessee, and Meridian, Mississippi, a distance of about 295 miles, on the 15th day of May, 1871. At that time, all of said railroad, with the exception of some few miles of the parts just constructed, was in most excellent condition and as well constructed as any new railroad in the United States; that its equipment of engines, cars, tools, and all kinds of material, are of the most modern and approved manufacture; that its business was good and increasing; that the management of the road was unexceptionable, meeting the approval and commanding the admiration of, not only the citizens along its line and the travelling public, but the most able railroad-men in the country; in fact, the condition
and general management of the road was always the subject
292 of remark for its excellency and efficiency. He further says that soon after the road was taken possession of by a receiver, first by order of the United States district court as a court of bankruptcy, and then by the State of Alabama, the property of the road commenced being abused; that many suits were brought against said company before justices of the peace and before petit courts, and by virtue of their processes much of the valuable property and appurtenances of the road was sold at a sacrifice, without any visible effort being made by the said receivers or custodians to prevent the same; that while said property was in the control of said receivers and custodians large quantities of iron, nails, spikes, and other valuable material was sold and disposed of and the proceeds used by them or their agents without the orders from
any court; that from a weak and vacillating management that
293 was entirely devoid of discipline or ability, the property of the company was injured, destroyed, and worn out to the extent of hundreds of thousands of dollars; that the business was almost entirely lost for want of attention and ability, and largely decreased from the extent it had been when the company lost control of the management through the agency of the governor of Alabama. He further says that the security of all classes of bondholders and creditors is irreparably injured by the receivers, custodians, or agents heretofore appointed to take charge of this valuable property, and unless some relief is granted the entire value of the property will be gradually but surely dissipated.

THOS. J. CARLISLE.

Sworn to and subscribed before me this 18th day of May, 1872.

J. M. JOHNSON,

U. S. Commissioner, District East Tennessee.

294 Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern division of Tennessee, James R. Slayton, a citizen of Chattanooga, Tennessee, who, being duly sworn, deposes and says: I am thirty-three years of age, and was during the war a captain of the United States engineers, and since the war I have been engaged in

building railroads as a contractor; I am conversant with the Alabama and Chattanooga Railroad as far south as Tuscaloosa, in Alabama, and considered it at the time it was seized by Governor Lindsay, one of the best built roads in the South; not only was the track first class, but the rolling-stock was new or nearly so, and in fine condition; I have been over the road once since it was seized by Lindsay, and the road at that time was in a very bad condition, and the rolling-stock worn. The management has, in my opinion, been conducted, not for the in-
295 terest of the road or State of Alabama, but in the interest of the inefficient managers appointed to control its working and take charge of its effects. Immense amounts of property have been sold for a nominal sum, and large amounts have been stolen and carried off by the employees. I do not know the present condition of the road-bed and rolling-stock, but at the time I last passed over the road I believe it would have taken one million dollars to put the stock and track in as good condition as it was at the time of seizure, and were I one of the mortgage-bondholders I should deem it my duty to proceed at once with foreclosure to save anything from the wreck.

JAMES R. SLAYTON.

Sworn to and subscribed before me this 18th day of May, 1872.

J. M. JOHNSON,

U. S. Commissioner, District East Tennessee.

296 Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern division of Tennessee, William H. Millner, of Pittsylvania County, State of Virginia, after having been duly sworn, states: That he is thirty-two years old and has been connected with railroads about fifteen years, and has been acquainted with the Alabama and Chattanooga Railroad about three years, and when it was completed it was as good, if not the best railroad in the South; he further says that he has been over said railroad a great many times. Before and up to the time said road was pretended to be taken possession of by the bankrupt-court, it was worth at least $30,000 per mile. The road had eighteen new locomotives, eight first-class passenger-cars, two new Pulman sleeping-cars, eight to ten baggage and mail cars, and second-class cars sufficient to do the general business of the road, and that
297 all cars and locomotives were in first-class order; that there were hand-cars and tools upon every section in abundance and supplies sufficient of all kinds to last said railroad for twelve months. He further states that there was a surplus of rails sufficient to lay three or four miles of track, and bolts, fish-plates, and spikes sufficient for ten miles of line. The company had opened a coal-mine for the purpose of coaling their engines and for shop purposes, and had laid their track with T-rail for about three-fourths of a mile, with a supply of coal-cars and tools sufficient for mining, houses, coal-shutes, scales, and everything in first-class order, and that the said coal-mine had cost the company one hundred and fifty thousand dollars at least to open and equip it. He further says that since the proceedings in bankruptcy commenced the iron, cars, scales, tools of all kinds and, in short, everything which
298 was movable has been carried away, and has damaged the company by so doing at least one hundred and twenty-five thousand dollars; the iron which was on the line of said railway, consisting of rails, fish-plates, bolts, and spikes have been carried away and sold; one first-class locomotive has been sold or hypothecated; hand-cars,

tools, and supplies of all kinds have been stolen, sold, or carried away from the line of said road; depot-furniture, scales, car-wheels, car-axles and a new depot-building, framed and being erected at Chattanooga, Tennessee, with iron bolts sufficient for the entire building, which was 600 feet long by 125 feet wide, with other loose property on line of said railroad, which has been sold by sheriffs and constables for a mere trifle. This has all occurred since the first proceedings in bankruptcy. The property above referred to was worth to the said company at least four to five hundred thousand
299 dollars. He further states that he has been over the line of said railroad one dozen or more times since its seizure in bankruptcy; the assignees in bankruptcy have never had charge of said railroad, to his knowledge; the road was run by a drunken mob of engineers, firemen, and brakemen. He further states that he never saw railroad property destroyed so rapidly in all his experience in railroading; there is property advertised for sale which lies in shops at Chattanooga, amounting to ten or fifteen thousand dollars; he has never known any one excepting the representatives of bondholders to object to the sale of any property belonging to said railroad; he believes that the said road if sold now would not bring more than one-half its value at the time it passed from the company's hands, and that the property will be totally destroyed if it does not have some immediate attention.

WILLIAM H. MILLNER.

300 Sworn to and subscribed before me this 18th day of May, 1872.

J. M. JOHNSON,

U. S. Commissioner, District East Tennessee.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the eastern district of Tennessee, H. F. Parish, a resident of Chattanooga, Hamilton County, and State of Tennessee, who, after having been duly sworn, says: That he is familiar with the Alabama and Chattanooga Railroad, and that at the time of the seizure of said road by the agents of the State of Alabama, the road was in first-class order, with the exceptions of a few cuts which were being rapidly repaired. He was stationed on the southern division the time it was run by the company, and up to the time of the seizure of the road, and know' the character and reputation of the men who
301 had charge of the running of the road by the State, and know' them to be a dissipated, reckless, and irresponsible class of men. That since the State took possession of the road, he has been over only a portion of it, and find' the road-bed and track greatly deteriorated in value, from use without proper repairs, and evidences all along that portion of the road a wanton and reckless waste and abandonment of the company's property. The property of the company is being attached and sold by orders from courts of various grades, without regard to the rights of mortgagees and its other creditors; that he verily believes that the company has been despoiled of at least one million dollars' worth of property, greatly hazarding, in his opinion, the value of all grades of securities.

H. F. PARISH.

Sworn to and subscribed before me the 18th day of May, 1872.

J. M. JOHNSON,

U. S. Commissioner, District East Tennessee.

302 Personally appeared before me, Dan. J. Duffy, a United States circuit-court commissioner for the eastern district of Tennessee,

Sid. B. Smith, a resident of Birmingham, Jefferson County, Alabama, of lawful age, deposes and says: That he was acquainted with the condition and equipments of the Alabama and Chattanooga Railroad at the time of its seizure by the authorities of the State of Alabama and the officers of the United States district court for the middle district of Alabama, at which time the road-bed from Chattanooga, Tennessee, to Tuscaloosa was in first-class condition, with a sufficient force and gravel-trains to keep it in such condition. The road-bed from Tuscaloosa, Alabama, to Meridian, Mississippi, was in good condition, with sufficient force and gravel-trains to speedily put it in a first-class condition; trestling was new and substantial. From the present condition of the road-bed, trestling, &c., it will cost at least six hundred
303 thousand (600,000) dollars to place the said road-bed, trestling, and damaged iron in the same condition as at the time of its seizure. Of the rolling stock, there were 1 old engine, 18 new engines, 6 first-class passenger-coaches, 7 second-class passenger-coaches, mail and baggage coaches sufficient to do the business of the road, and about 300 box and flat cars. Up to the time of the seizure of the road, the rolling-stock was in excellent condition, being properly cleansed and overhauled after each and every trip, and all damages promptly and efficiently repaired. The engines were new and in first-class condition for passenger and freight business. The entire running department was man'ed by sober, energetic, and efficient men. From the present condition of the rolling-stock, one engine, "the D. N. Stanton," (the heaviest and best engine on the road,) has been stolen and disposed of by parties unknown; one engine, (first-class,) a complete wreck, with machinery gone; others
304 totally unfit for use, without repairs to the amount of two-thirds of their original cost—in a word, there is but "three" engines out of the "nineteen" in any respect in proper or decent condition of repair. The passenger-coaches are all in a damaged condition; some of them with the seats cut to pieces, cushions torn off, inside finish, hangings, &c., torn off and damaged, and some of them complete wrecks. The box and flat cars are all more or less damaged and worn. And in my opinion the rolling-stock cannot be replaced in like condition as when seized for a less sum than three hundred and twenty ($320,000) thousand dollars. At the time of the seizure of the road, the shops at Chattanooga and Meridian, the various offices for the working and successful running of the road were fully supplied with material, tools, implements, and all such articles as are necessary for and to the
305 running of a first-class road, with machine and car shops, also about forty hand and lever cars, and tools for the construction department, also a large supply of wood along the line of road, all valued at about one hundred and fifty thousand dollars. The "major" portion of the above species of property is now missing, and cannot be replaced for a less sum than one hundred thousand dollars. The depots, round-houses, shops, water-tanks, were in good condition and well taken care of. This species of property has been damaged not less than forty thousand dollars. Upon the whole, the damages to the Alabama and Chattanooga Railroad by the officers appointed by the State of Alabama and the United States district court for the middle district of Alabama, cannot be less than ten or twelve hundred (10 or $1,200,000) thousand dollars. This enormous damage and destruction to property is, in my opinion, and from personal observation, owing—

1st. To the utter incompetency of the officers appointed by the
306 State and court of bankruptcy.

2nd. To the incompetency, irresponsible, drunken, and reckless subordinates to these officers.

3rd. To not properly cleansing, repairing, and caring for the rolling-stock as it was used.

4th. Theft.

Taking into consideration the fact that the "direct damages" to the Alabama and Chattanooga Railroad Company amounts to the enormous sum of ten or twelve hundred thousand dollars, the fact that the company have lost the use of their property for twelve months, and that a large interest is daily accruing upon their bonds and liabilities, the damages, both direct and consequential, cannot fall far short of three million of dollars.

SID. B. SMITH.

Sworn to and subscribed before me this 31st day of May, 1872.

DANIEL I. DUFFY,
U. S. Circuit Court Commissioner.

307 Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the eastern district of Tennessee, Seth B. Moe, citizen of Chattanooga, Hamilton County, State of Tennessee, who, being duly sworn, deposeth and says that previous and up to about the date of the seizure of the Alabama and Chattanooga Railroad by the agents of the State of Alabama, he was assistant superintendent of said railroad, and personally familiar with the condition of the road; that since its seizure by the State he has not been over the line of the road, but is cognizant of the damages to and waste and abandonment of the property of the road in the State of Tennessee, which has been extraordinarily great, and which has indicated an entire indifference to the interests of the rightful owners, whoever they may be. Estimating from well-authenticated statements of the present condition of the road-bed and track, the condition of the motive
308 power and rolling-stock, the waste and sale, without accounting to the company for the same, of iron, trucks, carts, lumber, tools, and stores and supplies, at this point and along the line of the road, he believes it would require an outlay of from eight to ten hundred thousand dollars to restore the property of the company to the condition it was when seized by the State of Alabama. At the present time the property of the company in Tennessee is being disposed of by orders of courts of various grades and of questionable jurisdiction in the matter, and large amounts of valuable property have already been sold under orders of questionable authority.

SETH B. MOE.

Sworn to and subscribed before me this 18th day of May, 1872.

J. M. JOHNSON,
U. S. Commissioner, Dist. East Tennessee.

309 Personally appeared before me, Daniel J. Duffy, a commissioner appointed by the circuit court of the United States for the eastern division of Tennessee, Lemuel J. Standifer, of Gadsden, Ala., who, after being duly sworn, says on oath that he has had occasion to travel over and be on and along the line of the Alabama and Chattanooga Railroad, from the time it reached the Alabama line, about 32 miles south of Chattanooga, Tennessee, to its completion at Meridian, Mississippi, until the present time; that his opportunities of knowing the management of the road during its construction and during the time it was run

by the company after its completion was good, and from the time of the completion of the road, 15th of May, 1871, to the present time has been equally good, and from the facts that have come under his observation he is fully authorized to say that it was constructed with wonder-
310 ful rapidity, and made the best road in the South and gave full satisfaction to the shipping and travelling public; and that at the time it passed into the hands of the State there were about nineteen engines in good condition on the road and something over three hundred cars, consisting of passenger, stock, freight, &c., sufficient to do the business, besides a great number of hand-cars and levers, and tools and material, which had been procured at great expense for the use of the road. That the road has been neglected since it passed into the hands of the State; that some of the engines have been hypothecated and others and many of the cars have been thrown off the track and destroyed and left by the wayside, and that all the other rolling-stock, engines, and cars have been greatly injured, and the road-bed neglected to such an extent that it is all greatly damaged, and much of it either
311 impassable or dangerous; and that hand-cars, leavers, and nearly all the tools have been seized by individuals or officers and carried off and sold by some pretended authority; that much of the time since it passed into the hands of the State, the citizens along the line could not get their mails, ship their goods, or get transportation over the road; and that in its present condition the road and its appurtenances would not bring as much as fifty cents in the dollar as compared with its condition and value at the time it went into the hands of the State.

LEMUEL J. STANDIFER.

I will further say that I have spent near all my time along the line of the road from Chattanooga to Tuscaloosa, about two hundred miles, in the practice of the law since it passed into the hands of the State, and from all that I could see or learn, that there was little or no effort
312 on the part of those in charge to take care of the property of the road.

LEMUEL J. STANDIFER.

Sworn to and subscribed before me this 22nd day of May, 1872.

DAN. J. DUFFY,
U. S. Commissioner, &c.

Sworn to and subscribed before me, the second time, this 21st day of May, 1872.

J. M. JOHNSON,
U. S. Commissioner, Dist. East Tennessee.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, A. H. Green, a resident of Chattanooga, Hamilton County and State of Tennessee, after having been duly sworn, says that he has been acquainted with the Alabama and
313 Chattanooga Railroad for three years, and, at the time of seizure of said railroad by the State af Alabama, it was well and thoroughly equipped with locomotives, passenger, mail, and baggage, box and flat cars, all of first class and in first-class order, sufficient to transact the business of said railroad. A new passenger-depot was being erected with lumber, bolts, &c., all framed and made, and in readiness

for erection, and that abundance of supplies were on hand in shops and store-room to last for keeping rolling-stock in order for one year. He further states that, at the time of seizure by said State, the requisite number of trains, in splendid running order, were making all connections with regularity, and that the receipts from both passengers and freights were constantly on the increase, and that a contract, just begun to be fulfilled with the U. S. Government for transportation of the mails was, by said seizure, rendered null, and the revenue there-
314 from diverted into other channels; that since said seizure innumerable attachments have resulted in sales at less than a tenth of the real value of the property. Locomotives and other rolling-stock have been disabled, sold, and otherwise deteriorated to the amount of much more than half its value when seized by the State of Alabama; supplies were sold, stolen, or carried away and wasted. The road has been entirely under control of irresponsible parties, no proper care bestowed upon any property thereunto belonging, and no effort made, legally or otherwise, to prevent sales, theft, or waste, all at a ruinous sacrifice, except thorugh the exertions of the general superintendent at a heavy expense fruitlessly incurred.

A. H. GREEN.

Sworn to and subscribed before me this 18th day of May, 1872.

J. M. JOHNSON,
U. S. Commissioner, District of East Tennessee.

315 Personally appeared before me, Danl. J. Duffy, a United States circuit court commissioner for the eastern district of Tennessee, William C. Robinson, who, being duly sworn, says he is thirty-four years old; that he has been in the service and employment of various railroads for thirteen years; that he has been in the employment of the Alabama and Chattanooga Railroad since September, 1868; that the said railroad was completed May 15, 1871, and at that time the track, bridges, and rolling-stock were new, in fine condition, and being well cared for; that after receivers took possession of the road the management became bad, and inefficient in every respect and in every department.

That at Meridian, Mississippi, a large number of cars of different kinds have accumulated on account of being useless or unserviceable.

316 One passenger-coach No. 11, a first-class coach, sits on a side-track, on freight-trucks, the original trucks having been totally wrecked; part of the backs and cushions of the seats have been stolen or carried off at the wreck; the stove has been stolen or carried off; all the floor and floor-timbers have been broken; the oilcloth carpet has been cut up and spoiled; both platforms and steps have been broken off; lamps have been stolen; the damage to said coach is fully two thousand dollars.

A second-class passenger-coach, No. 3, also stands on side-track at Meridian, Mississippi, on freight-trucks, entirely disabled; it having fallen through a bridge two miles north of Epps Station; it is badly damaged all through, and will have to be entirely rebuilt; it has been damaged fully fifteen hundred dollars.

Fully thirty-five freight cars, of different makes, have been piled up promiscuously in the yard at Meridian; seven or eight of the bodies of
317 the cars have been tumbled over into the field, at the side of the tracks, from the flats, or trucks on which they were brought in from the points where they were destroyed; these cars

e badly damaged, will require fully one-third of their original cost to put them in a condition to be of any service whatever; the damage to t hese cares is from $8,000 to $10,000.

There are nine freight-cars lying in the ditch between Meridian and Tuscaloosa, entirely unserviceable; it will cost from $2,500 to $3,000 to put these cars in a serviceable condition.

There are three engines, No. 1, 2, and 8, at Meridian, Mississippi, unserviceable; No. 1 run off the bridge north of Epps Station by fast running and carelessness, and is fully damaged $4,500 in value. Engine No. 2 was run off the track north of Meridian, Miss., and turned over on her side; most of her machinery has been used to repair other engines; the damage to this engine is fully four thousand
318 dollars. Engine No. 8 is badly burnt in the boiler, several flues being burnt so that she leaks badly; this was done through the drunkenness and inattention of engineers; the damage to this engine is about $1,000. Engine No. 10 is a total wreck by a collision north of Cuba, Ala., through the carelessness and drunkenness of the trainmen running said engine; the damage to this engine is about $8,000. Engine No. 5 is damaged by the excentric bars being bent in running over a pile of dirt in a cut; the pilot is damaged by the same cause; pump on left-hand side is damaged; this damage is caused by carelessness, and will cost $500 to put in as good condition as it was when in possession of the company. Engines Nos. 9, 13, and 14 have been badly and unskilfully used, and will cost about $1,000 to put in as good condition as they were before they were taken possession of by receivers.

319 The stationary engine at the shops in Meridian, Miss., is damaged $100 by neglect of repairs.

The stationary engine at Birmingham, formerly at Tuscaloosa, is damaged $100 for want of repair.

The turn-tables, shops, depot, and machinery at Meridian, Miss., is damaged fully $3,500.

The bridge at York, Alabama, is rotten and unsafe, from want of attention; it will cost $500 to repair it.

The draw-bridge on the Warrior River is badly damaged; the centre plates are both broken; the bottom track is broken in three places, and has caused the bed of the draw to warp; it will cost fully $1,000 to put it in good repair.

The water-stations all along the line of the road have been more or less damaged. At Attala, Alabama, four thousand feet of 1½-inch pipe was allowed to become exposed to the cold, was frozen and
320 bursted; the damage in this particular will cost about $3,000 to replace. The track from Attalla, Alabama, is badly damaged for want of care; the iron has become bent and kinked, and in many places entirely unserviceable. In my opinion it will cost over $500,000 to put the road in the same condition as it was when in the possession of the officers of the company and before the receivers took possession of it. The material for a new passenger-depot at Chattanooga was nearly all ready to put up; it was invoiced and turned over to the custody of the receiver of Alabama, since which time it has entirely disappeared and cannot now be found. Its value was about $20,000. Large quantities of other kinds of material have been taken away, which was turned over to the receivers of Alabama, and which cannot now be found; much of the property in the yard at Chattanooga has been sold; the ma-
321 chinery in the shops has been greatly damaged; it will cost fully $100,000 to replace the material and put the machinery in the

same condition it was when the receivers of Alabama took possession of the property. He further says that on the 16th day of this month he brought up to Chattanooga from the line of the road the remains of about $10,000 worth of cars, hand-cars, and other property, that had been destroyed on the line of the road since the receivers of Alabama had been running it; the property brought here was car-wheels, axles, bolts, nuts, rods, and parts of cars generally, that had been demolished. The round-house at Attalla is damaged five hundred dollars. All this damage and loss of property has occurred through the negligence, carelessness, want of ability, and recklessness of the various receivers appointed by Alabama, the State courts of Alabama, and the United
322 States district court sitting as a court of bankruptcy for the middle district of Alabama.

W. C. ROBINSON.

Sworn to and subscribed before me this 31st day of May, 1872.

DANIEL J. DUFFY,
U. S. Circuit Court Commissioner.

323 *Package* 1.

Affidavits taken by complainants in the case of—

SETH ADAMS AND OTHERS
vs.
ALABAMA AND CHATTANOOGA RAILROAD COMPANY et als. } In equity.

Personally appeared before me, William J. Haralson, as judge of the fifth judicial circuit of the State of Alabama, Littleton F. A. Hollman, who says, on oath, he went into the employment of the Alabama and Chattanooga Railroad Company 1st September, 1869, as a cross-tie agent for the northern division, and continued regularly in said employment until the seizure of the road by the State, about 1st August, 1871; that during the latter part of his service he went along the whole line of road; that at the time of the seizure of the road by the State it was in first-class condition, with the exception of some temporary trestles; there were nineteen first-class engines, most of them new, with a sufficiency of passenger, freight, flat, and stock-cars for the use of the road, with either a leaver or hand car for each section, and a large and
324 abundant supply of tools on the whole line, all of which were in good condition for use, and that at the time the road was run by the company it was run regularly, and under the control of efficient officers, made good time, and in such way that it did the business of and gave entire satisfaction to the country; that since the seizure of the road by the State he has had occasion to pass over the road from Birmingham to Chattanooga; that he is now a merchant and engaged in the shipping of coal on the upper division of said road, and it is within his knowledge that many of the engines and cars have been destroyed and some of the rolling-stock rendered unfit for use, and the remainder worn and damaged to a greater or less extent; that most of the time the trains have been irregular in their trips up to January, and since that time the northern division, from Chattanooga to Attalla, more regular; that there has been but few hands kept on any part of said road to keep it in repair, and that it is in much worse condition for use than it was at the time it was seized; that at the time of the

325 seizure there was a good supply of wood on the *the* upper division. I know from the information of both engineers and conductors that the road on the lower or southern division is and has been in *in* such condition that they cannot make through trips from Meridian to Chattanooga for most of the time since the seizure, and it is within his knowledge that nearly all the wood has been consumed or carried off.

(S'gn'd) LITTLETON F. A. HOLLMAN.

Sworn to and subscribed before me this 13th day of June, 1872.

(S'gn'd) W. J. HARALSON,
Judge Circuit Court, Fifth Circuit of Alabama.

J. M. HENDRIX:

Personally appeared before me, William J. Haralson, as judge of the 5th judicial circuit of the State of Alabama, John M. Hendrix, who says on oath that he is a citizen of De Kalb County, in said district, and that he has been engaged in business as a merchant and the shipping coal on the northern division of the Alabama and Chattanooga Railroad since 1st Nov., 1870, and that the road was in good and first-class condition for a new road up to about the 9th of July, 1871; that
326 at that time, 9th July, 1871, there were about nineteen engines and a sufficient quantity of cars and rolling-stock on the line, and a great quantity of leaver or hand cars and tools for the use of the road and to do the business of the country; that the road, with the exception of some temporary trestle, was in good condition; that the passengers, goods, and all articles of commerce were shipped and sent over the line of road with safety and dispatch up to the 9th July, 1871; and that after the road was seized by and went into the hands of the State authorities in August, that the trains became more irregular, the road gradually went down, some of the engines and many of the cars disabled, and after a time the trains ceased to make through trips, the result of all which has produced great damage to the company and to the country.

(S'gn'd) J. M. HENDRIX.

Sworn to and subscribed before me this 13th day of June, 1872.

(S'gn'd) W. J. HARRALSON,
Judge of the Circuit Court, &c.

327 CHATTANOOGA, TENNESSEE, *9th March*, 1872.

SAMUEL J. STANDIFER.

Personally appeared before me, , a United States commissioner for the , Judge Standifer, who says on oath that he has frequently been on and along the line of the A. & C. R. R. during the last few months; that for some time past there have been no trains run from the lower end of the northern division; that the road from that point to Meridian is in such condition that it is dangerous for trains to pass over it; that the two lower divisions are completely under the control of a mob and has been for some time past; that he has been informed that because they have not been paid for their work, that at some points they have removed some of the rails and obstructed the road, and that they have stopped the running of the Selma train from York station to Meridian; that the rolling-stock first put on the road has been so much abused that it will take heavy repairs to make it of any use; that

many of the cars and engines have been almost entirely destroyed,
328 &c.; that there is great complaint among the citizens along the road that they cannot get their mail, and that goods and provisions cannot be shipped for the use and support of the country, and almost all the citizens are becoming excited as to this unfortunate state of affairs and express great anxiety that something should be done at once for the relief of the country; that to his knowledge many of the citizens are despondent on the road for the shipment of their provisions, and unless it is done, that they will be subjected to great inconvenience and most enormous expense to obtain a support.

(S'gn'd) SAMUEL J. STANDEFER.

Sworn to and subscribed before me this 11th day of March, '72.

DAN. J. DUFFY,
U. S. Comm's'r.

THOMAS H. PAYNE.

Personally appeared before me, J. M. Johnson, a commissioner by the circuit court of the United States of America for the eastern district of Tennessee, Thomas H. Payne, of the firm of Patton & Payne, wholesale and retail dealers in books, stationery, &c., &c., in Chattanooga, Tennessee, who, being duly sworn according to law, deposes
329 and says that during the period the Alabama and Chattanooga Railroad was under management of the company, we received many orders from the merchants along the line of said road, and which we shipped promptly and without any detention whatever, as the officers and employees worked to accommodate the business community, freights being carried at low rates and delivered promptly; but since the road has passed into the hands and under the direction of the receivers, great inconvenience and loss has been occasioned for the want of proper facilities to ship freights expeditiously and safely, and the charges on same has been greatly increased.

(S'gn'd) THOMAS H. PAYNE.

Sworn to and subscribed before me this 6th day of February, 1872.

[SEAL.] (S'gn'd) J. M. JOHNSON,
U. S. Commissioner.

WM. P. LYNCH.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the
330 eastern district of Tennessee, Wm. P. Lynch, of Tuscaloosa, Ala., who, first being duly sworn, deposes as follows: He has been acquainted with the Alabama and Chattanooga Railroad since its construction, and that it was carried on, so long as it was in the hands of the R. R. Co., to the benefit of the company as well as the public generally, and has given good satisfaction to the citizens of our place. Am a wholesale and retail furniture dealer. Since the road has been in the hands of the present receivers, it has been more irregular, causing great complaint in the community, greatly to their injury. He further states that he has been obliged to go to Chattanooga twice in a week to look after his freight, and is now here looking after 8 to ten car-loads of freight for himself and other merchants of Tuscaloosa. Trains have been run and are now running very irregular, and for a week at a time we have been without mail accommodations. I understand that the

road is in very bad condition, so much so on the lower end as to be entirely unsafe for trains to pass over.

(S'gn'd) W. P. LYNCH.

331 Sworn to and subscribed before me this 6th day of February, 1872.

[SEAL.] (S'gn'd) J. M. JOHNSON,
U. S. Commissioner.

STATE OF ALABAMA,
County of Montgomery:

WALLACE A. CRAWFORD.

Before me, Geo. H. Patrick, a United States commissioner, personally appeared Wallace A. Crawford, who, being duly sworn, says that he has been in the employment of various railroads for the last fifteen years, in different capacities. That from the time the construction of the Alabama and Chattanooga Railroad was commenced, to the time it was taken possession of by J. H. Gindrat as receiver, appointed by the governor of Alabama, was in the employ of the Alabama and Chattanooga Railroad Company as construction and road master. I am acquainted with the condition of said railroad when it was taken possession of by Mr. Gindrat. Over two hundred miles of the road was in first-class condition for a new road. About forty miles of the road, owing to the fact that it was of very recent construction, needed settling, and some
332 other work done upon it; but as it was the whole road was entirely safe, and the schedule-time of the passenger-trains of the company had been about twelve hours between Chattanooga and Meridian, a distance of two hundred and ninety-five miles. When J. H. Gindrat took possession of the road, there were probably a thousand hands along the line of the road, and at work, and had this force been allowed to continue at work a short time the whole road would have soon been first class in every particular.

The freight and passenger cars and engines of the company were all in splendid condition, and well attended to and managed. To the best of my recollection there were nineteen engines on the road, eighteen of which were first class, costing from twelve to fourteen thousand dollars each.

I was lately sent by a committee appointed by the senate of Alabama to investigate the late management of the road, and walked over two hundred miles of said road, for the purpose of inspecting its con-
333 dition and the condition of its rolling-stock, engines, &c. I found the road in very bad condition, so bad that it was not safe for trains to run over it in many places. The damage to the road from suffering it to go so long without repairs and to the iron is immense, the iron being bent out of line and so badly damaged otherwise that a great deal of it will have to be taken up and rerolled. I found not more than twenty-five laborers along the entire length of the road; these would not be more than enough to keep up more than ten or twelve miles of the road in its present condition. The road is not now safe to travel over. Run-offs are now of almost daily occurrence, and cars and engines are smashed up; collisions have lately occurred, in one of which, 25th January, 1872, two engines and several cars were wholly wrecked and three men killed, including an express-messenger, and others severely wounded. The cars of the company are strewed in the ditch and along the side-tracks from Meridian to Attalla, in a crippled
334 and wrecked condition. Out of the nineteen engines above referred to there are but few, say five or six, able to do duty. Most

of the freight-cars have been disabled, and the passenger-coaches are greatly damaged, and are rapidly becoming worthless. The laborers have not been paid for the last three months, and are loud in their complaints; within the past few days they have struck, have seized the property of the company and refused to allow it to be run until they were paid. The citizens all along the line complain of the present management and desire the road to be placed in the hands of men who will properly manage it and pay these laborers. Shipments by this road of freights are becoming almost impossible, and business men are seeking and securing other modes of transportation. In conclusion I will say that in my judgment, as a railroad man, conversant with such matters, the damage to the property of the Alabama and Chattanooga Railroad Company, since it was taken possession of by J. H. Gin-
335 drat, has been at least a million of dollars. The men in charge of the road were many of them discharged by the company for inefficiency and failing to settle up their accounts. Among these is H. F. Wheeler, who is now acting as the superintendent of the road. From my knowledge of the affairs of the present management and the condition of the road-bed and the property of the A. & C. R. R. Co., I am confident the road cannot be run sixty days under the present management.

(S'gn'd) WALLACE A. CRAWFORD.

Sworn to and subscribed before me this 1st day of February, 1872, by Wallace A. Crawford.

(S'gn'd) GEO. H. PATRICK,
U. S. Commissioner, Middle Dist. of Alabama.

STATE OF ALABAMA,
County of Montgomery:

DANIEL J. DUFFY.

Before me, Geo. H. Patrick, a commissioner of bail and affidavits, duly appointed by the district court of the United States for the middle district of Alabama, exercising circuit court powers,
336 personally appeared Daniel J. Duffy, a citizen of the city of Chattanooga, county of Hamilton and State of Tennessee, who, being of lawful age, deposes and says that: I have been familiar with the workings of the Alabama and Chattanooga R. R. since the same has been seized by the direction of the State of Alabama. The property when seized was in a fine state of preservation, being almost new, and when purchased were first class, and superior to the same line of property used by other roads throughout the South. That the property now is very much deteriorated in value, and in fact a great portion of it is entirely valueless; that there is barely sufficient rolling-stock between Attalla and Birmingham to operate the road; that instead of a regular passenger-train as heretofore, the same by reason of the destruction of the property for want of ability to operate the same, has been reduced to a mixed train between the points of Meridian and Birmingham, going north, when on their arrival at Birmingham they are compelled to lay over at Birmingham all night, when they take
337 a construction or wrecking train, with a car known as a caboose, this used for a passenger-coach, and run from Birmingham to Attalla. I passed over the line of the A. & C. R. R. during last week, leaving Chattanooga at 6.40 a. m., arriving in Attalla by 12 m., where I found the above accommodations for a first-class passenger. I took the train for Birmingham at 2 p. m. same day, and arriving at Birmingham the day following at 11 a. m., having been between the points of Attalla and

Birmingham, distance about fifty-seven miles, for twenty-one hours. There was at the general headquarters, in the city of Chattanooga, a large quantity of r. r. supplies, and also at the shops large quantities of lumber and other materials necessary and used in the equipments of the road, which have all been destroyed or disposed of. I have read with care the statements made by J. C. Stanton, the general superintendent of the A. and C. R. R. made before the special committee of the senate of Alabama to examine and investigate the management of the railroad since the seizure of the same by Alabama, and
338 refer to that part of his testimony that estimates the value of the property at Chattanooga at four hundred thousand dollars, and fully concur in said estimates.

Having a very fair knowledge of the general character of and reputation of all roads throughout the country, that at and before the seizure of the A. and C. R. R. by the officers of the State, that said road, being a new one, had throughout the East, North, and West a reputation surpassed by no road of its same age in the United States, and that should the road pass into the hands of a private corporation, it would take a year and the expenditure of a million of dollars, and perhaps not then could a reputation such as it had at the time of the seizure be established.

The present officers of the road in the interest of Alabama are J. H. Gindrat, receiver, and H. T. Wheeler, supt. From proceedings in chancery court from Sumter County, I learn a gentleman by the name of Walsh, of Mobile, has been appointed receiver, but to my
339 knowledge he has not entered upon the discharge of his duties unless the same has been done within the past few days. There is much complaint among the citizens along the line of the road about its present management and the total regard for the rights of property; saying no accommodation is extended them by the officers of the road; that they can receive neither mail nor freight from Chattanooga without serious inconvenience; that there is no mail train running from Attalla to Birmingham, the mail for that section being left at Attalla. There are no section-hands on the road between Chattanooga and Birmingham, and the road is in a very bad condition and becoming worse daily for want of sufficient force to keep up the most ordinary repairs. The road from Attalla to Birmingham is much worse than between the points of Chattanooga and Attalla. The latter passing through a flat and marshy country, renders it absolutely necessary to keep a constant force employed to prevent danger; this is not
340 done, however, and some of the trestling is now dangerous; one of which I make mention *of* is that known as the "Red Gap trestle."

(S'gn'd) DANIEL J. DUFFY.

Sworn to and subscribed before me this 7th day of February, A. D. 1872, at Montgomery.

(S'gn'd) GEO. H. PATRICK,
U. S. Commissioner Mid. Dist. Alabama.

STATE OF ALABAMA,
De Kalb County:

Personally appeared before me, L. B. Watts, an acting justice of the peace in and for said county, the following citizens of said county: John Winston, Alfred Collins, L. B. Watts, W. J. Roberts, J. B. Gand, D. C. Williams, L. R. Frizzell, J. J. Smith, N. W. Fulder, G. W. Roberts, A. B. Hall, John Price, who, after being duly sworn, testify that they have

been accustomed to ship freights and travel over the A. &. C. R. R.; that when it was operated by the company it was kept in good condition, was well equipped, run regular freight and passenger trains daily each way, and persons and property were transported promptly
341 and safely at moderate rates. The officers and employees of the road were prompt, polite, and sober, and at all times able to discharge their duty, but since the road has passed into the hands of a receiver there has been quite a change in the management of the same; there are none or but few men to keep the road repaired. There are no connections at Attalla, and we are informed that no shipment can be made south of that point. From Chattanooga to Attalla there is but one train daily each way, and that is a combination of the freight and passenger trains; the passenger fare is one cent per mile more, and freight rates from two to three times greater than charged by the A. & C. Company.

Sworn to and subscribed before me this the 5th day of February, 1872.

L. B. WATTS, *J. P.*

JANUARY 29TH, 1872.

Hon. C. O. WHITNEY,
Chairman Senate Special Committee:

342 DEAR SIR: In reply to your note of enquiry of yesterday, I would state that I have been connected with railroads in the capacity of travelling and passenger agent since the close of the war, and for the last four years the special agent of the Orange, Alexandria and Manassas Railroad Company in both the passenger and freight department.

As I was in the convention of superintendents held in the city of Washington on the 7th day of June, 1871, which was held for the purpose of making a quick line of travel between New York and New Orleans, I know that Mr. J. C. Stanton, then superintendent of the Alabama and Chattanooga Railroad, proposed to make the schedule over the A. & C. R. R. seven hours quicker than any schedule proposed by any other road; at the same time not requiring connecting roads to make a faster schedule than then theh agreed to make, which schedules are now being run.

Mr. Stanton left the convention protesting against the slow time that they had agreed to make. Mr. Stanton had made arrangement for sleeping-cars to be run through without change from Lynchburg
343 to New Orleans. The through mails were ordered transferred to this route and the transfer had been made, but the trains being stopped on the A. & C. road, these mails were stopped at Chattanooga and transferred to another route.

The general ticket agent of the A. & C. Railroad had prepared through coupon tickets and put them on sale in the different northern and eastern cities. Through travel had commenced over this route with flattering prospects, and I know that passengers holding through tickets for points south of Meridian, Mississippi, were stopped at Chattanooga and forced to take some other route, and I further know that a number of passengers from both the North and the South were forced to change their route first selected, by the stopping of the trains on the Alabama and Chattanooga Railroad.

Ques. Are you willing to be qualified as to the truth of this statement made in reply to my inquiry of yesterday?

Yes, sir; I am.

(S'gn'd) J. S. MOFFATT.

344 Sworn and subscribed before me this 30th day of January, 1872.

CHARLES O. WHITNEY,
Chairman Senate Special Committee.

STATE OF ALABAMA,
Etowa' County:

J. C. ANDERSON.

Personally appeared before me, W. L. Cain, notary public, of Etowa' County, State of Alabama, J. C. Anderson, who says he resides in Gadsden; that he is thirty-eight years old; a civil engineer by profession; that he has been acquainted with the working and management of the Alabama and Chattanooga Railroad from the 1st January, 1869, up to the present time; that he was professionally employed on said road from January 1st, 1869, to August 17th, 1870; that during the construction, and after the completion, up to June, 1871, while being managed by Mr. J. C. Stanton, the interest' of the public were served, I believe, satisfactorily both to enemies and friends, having daily fast trains, with comfortable coaches, accommodating and polite conductors, drawn by first-class motive-power, serving the public with cheaper local
345 freight and passenger tariffs than any road South; that since the road has passed into the hands of Col. J. H. Gindrat the tariffs have been advanced, accommodation stopped—in short, the road has been, in my judgment, a curse to the communities through which it passes, the greater portion being run by a mob, when run at all, to the detriment and danger of both shipper and passenger, and to the very material running down of the motive-power and rolling stock. He further states that up to this date he has never seen any train employee or person connected with said road claiming to be under the orders or in the employ of Walsh, or has he ever heard of the said Walsh claiming to have any authority whatever. In my judgment, it will take one million dollars to put the A. & C. R. R. and fixtures in the condition it was when it went into the hands of the State.

(S'gn'd) J. C. ANDERSON.

STATE OF ALABAMA,
Etowah County:

I, Wm. L. Cain, notary public and ex-o. J. P., hereby certify that J. C. Anderson made oath to and signed the within affidavit before me
346 at my office, in Gadsden, on 6th February, 1872. I am personally acquainted with affiant, and he is a man of integrity and veracity.

Witness my hand and seal of office at office in Gadsden on 6th February, 1872.

[SEAL.] WM. L. CAIN.

STATE OF ALABAMA,
Etowah County:

W. W. PREWITT.

Personally appeared before me W. W. Prewitt, a citizen and merchant of this place, and, after being duly sworn, says on oath that he has been an observer of the management of matters on the Ala. and Chattanooga R. R. for some two years or more, and that the management of said road under the administration of J. C. Stanton could not

much be grumbled at in so far as his R. R. knowledge extended, as there was very little murmuring for loss of freight shipped on said R. R., and personal fare was only four cents per mile, or thereabouts, and freights reasonable, and the mail and mail-trains regular with one or two exceptions; and that under the administration since the road was taken from Stanton there has been no regularity in anything.

347 The mails are not regular and often not at all, and heavy complaint of extorting freight-bills and loss of goods shipped by those who have been patronizing the said road, and that there has been, as he thinks, a great, uncalled-for destruction to property by those who have managed the affairs since Stanton, as I have seen as many as from seven to ten bearings on one train, with the flames of fire blazing from six to twenty inches high, seeming impatient to avenge themselves on the weighty car-box above. He also said that he understood from good authority that the programme of Wheeler, Gindrat & Co. was to pay expenses for the running of the road by disposing of the rolling-stock and other property belonging to the road, and then give it up; and he also said that he heard one of the conductors say that he had had half bushel of tickets which he had never reported, and that he now had a peck in his possession, at a time not more than three weeks since.

(S'gn'd) W. W. PREWITT.

Sworn to and subscribed before me Febry. 6th, 1872.

(S'gn'd) H. W. PICKENS, *N. P.*

348 HOWARD M. SMITH.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, Howard M. Smith, who, being duly sworn, deposes and says that he has been in the employ of different railroads for the last twenty years, principally in the mechanical departments thereof; that he was appointed master mechanic or superintendent of the machinery department of the Alabama and Chattanooga Railroad Company in October, 1869; that he has continued in that position and has executed the duties thereof from that time up to date.

That the Alabama and Chattanooga Railroad was finished about the middle of May, 1871, and at that time the road, for a newly-constructed one, was in good condition; that he made all the specifications for the construction of the rolling-stock; that it was all new and in fine condition, with the exceptions hereafter named, viz: There were seventeen new engines, first-class, and in good order and condition; one second-class engine in good order; four first-class passenger-cars, four

349 second-class passenger-cars, seven third-class passenger-cars, one hundred and two freight-cars, one hundred and twenty-four flat cars, forty-eight coal-cars, four stock-cars, all new and in good order and condition; besides these, the road was fully equipped with lever and hand cars, for the use of section-men in repairing and keeping up the track.

Under the management of the company there were two passenger-trains running each way every day, without a single serious accident, and seldom any delay.

Just previous to the time the road passed into the hands of a receiver, arrangements had been made for the purchase and delivery of fourteen new engines, and requisitions had been made for the necessary material

to build five hundred new freight-cars in the workshops of the company.

The management of all the affairs of the road by the company was excellent, and the increasing business made it imperative and necessary to add to the rolling-stock as above mentioned.

350 Since the road has been in the hands of a receiver, the management has not been efficient; irregularities are frequent; accidents of a serious nature occur; trains are frequently delayed; business has fallen off, and from the insufficiency of rolling-stock and the manner in which it is handled and taken care of at the southern terminus of the road, freight is frequently delayed at the northern terminus.

Sometimes it is weeks before the engines and cars that leave the northern terminus are returned, and some do not return at all; engines are being damaged every day by having incompetent persons in charge of the same; cars are damaged by being run off, run into, and not being repaired when they required it. He further states that this damage and misuse occurs without his being able to prevent it, and by persons he did not employ nor recommend for employment. The roadbed and track is not in as good condition now as it was while under the control of the company, and by neglect and mismanagement of the rolling-stock, has inflicted great damage to the property and irre-

351 parable injury to all creditors. He further states that he is in a position where he would have known if the property or management of the road would have been under the control of Chas. Walsh, esqr., receiver, and states that he has never controlled said property, nor has he heard of his having been on the line of said railroad, or of his having endeavored to control it in any way.

(S'gn'd) H. M. SMITH.

Sworn to and subscribed before me this 3rd day of February, 1872.

(S'gn'd) J. M. JOHNSON,
U. S. Commissioner.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, Fred. H. Phillips and James Nichols, United States mail-agents, running on the Alabama and Chattanooga Railroad, after having been duly sworn, say on oath that they have been running as mail-agents, in the service of the United States, since April, 1870, regular trips over said railroad, excepting when trains became irregular, which was during the months of July, November, and

352 December, 1871. From April, 1870, to July, 1871, trains ran regular and made schedule time each way from Chattanooga and terminus. During this time the business of the road was carried on in a thorough and systematic order. Officers, clerks, conductors, engineers, and other employees were attentive, industrious, and seemed to exert themselves to the general good of the company.

The road was run successfully, kept in good repair, and everything was done that could be by first-class railroad for the accommodation of the public.

From and after about the 10th July, 1871, and since the State of Alabama took possession of said road to the present time, there has been a marked change in the administration of the road, from the chief manager down to the humblest employee. They have utterly failed to keep the road in repair; a large part of the rolling stock has been destroyed; frequently the trains have failed to make connection, and oftentimes

have been delayed on the road for several days at a time. Trains
533 sometimes stopping at stations, train-hands, from conductor to brakesman, have been known to go to saloons and take a drink. Conductors, train-hands, and other employees are in the habit of taking their liquors aboard the train for their special use during the trip. In consequence of this wholesale reckless management, the A. & C. R. R. has been badly damaged, is now in miserable repair, and incapable of making schedule time as formerly. Trestles have broken down, engines and cars have fallen through, which have been allowed to remain disabled for several weeks at a time; and some have never been taken up, but allowed to lay alongside the track along the line of the road. The repair shops at each terminus of the road are comparatively deserted, and little or no attention made to put the damage' rolling-stock in running order; and without a change in the present management the rolling-stock now on the line cannot do service but a very short time.

In addition to the foregoing the fare for passengers has been
354 raised, freights nearly doubled. This has created dissatisfaction among business-men in and near the line of said railroad.

(Sgnd.) FRED. H. PHILLIPS.
" JAMES NICHOLS.

The aforesaid Fred. H. Phillips further states that in October, 1871, a train failed to leave Meridian, Mississippi, on time, owing to the fact that the conductor and engineer were both drunk, and could not in less than one-half hour be persuaded to take charge of and run the train. When the engineer took his engine in charge he was unable to sit up, consequently the fireman (who was not quite so drunk) was compelled to take charge of the engine and run it to its destination, Attalla. In the mean time the engineer went back into a passenger-car and slept until the train arrived at Attalla. The conductor utterly failed to attend to his duties as conductor, having fallen asleep with the engineer and slept until he arrived at Attalla.

(Sgnd.) FRED. H. PHILLIPS.

355 Sworn to and subscribed before me this 3rd day of February, 1872.

[SEAL.] (Sgnd.) J. M. JOHNSON,
U. S. Commissioner.

Filed May 30th, 1872.
(Sgnd.) N. W. TRIMBLE, *Clerk.*

356 *Report of the special senate committee.*

Report of the special senate committee, appointed to investigate the management of the Alabama and Chattanooga Railroad since the seizure of the road by the State of Alabama.

To the senate of Alabama:

On the 19th day of December, 1871, the following resolution was referred to the undersigned as a special committee:

"*Resolved*, That a committee of three on the part of the senate be appointed by the president of the senate, with power to send for persons and papers, and to sit during the recess, whose duty it shall be to investigate and report upon the management and condition of the Alabama and Chattanooga Railroad, since said railroad was seized and has been managed by the State of Alabama or its agents; said committee

shall ascertain the number of tons of railroad iron belonging to the said Alabama and Chattanooga Railroad which has been sold by
357 said agents, and by what authority, and at what price; what locomotives have been sold or hypothecated; what disposition has been made of the funds derived from such sale and hypothecation of property; what improvements have been made by said agents on said road; the amount of receipts and expenditures, and how said receipts have been applied, &c., and report by bill or otherwise at as early a day as possible."

Under the foregoing resolution we have summoned witnesses and ordered persons and papers for examination.

All of the witnesses summoned have appeared and testified, but Maj. H. F. Wheeler, assistant superintendent, and R. C. Randolph, treasurer, have refused to bring their books and papers before your committee, though ordered to do so.

We hereby submit the testimony elicited, and respectfully request to be discharged, with a recommendation, however, that the testimony be published and laid before the general assembly.

358 We recommend to the senate and the general assembly such immediate action as may be necessary to an efficient management for the Alabama and Chattanooga Railroad, and to secure and preserve the best interests of the State as endorser for the bonds of the same.

C. O. WHITNEY.
JOHN M. MARTIN.
J. L. PENNINGTON.

MONTGOMERY, ALA., *January 26th*, 1872.

TESTIMONY.

Testimony of W. A. Crawford.

Q. What is your name, age, residence, and occupation?

A. My name is W. A. Crawford; am thirty-three years of age, and reside in Chattanooga, Tennessee; I was road-master on the Alabama and Chattanooga Railroad from Meridian to Tuscaloosa at the time said road was taken possession of by the State of Alabama.

359 Q. How long were you connected with the Alabama and Chattanooga Railroad?

A. From February, 1869, to June, 1871.

Q. Do you know all the work done on the said road at the time the State took possession of it?

A. I do.

Q. Could you be able, by going over the road, tell how much, if any, new work was done on the road since the State took possession?

A. I could.

Q. Do you know how much railroad iron was left over on the line of the said road after the completion of the main track?

A. I think there was from six to eight miles of iron left over.

Q. Do you know what has become of that iron?

A. I do not; but know it has been shipped off since the State took charge of the road.

Q. Was the iron removed from the road, taken from that part of the road that you had charge of?

360 A. It was.

Q. Do you know of the sale by hypothecation of any locomotives belonging to the Alabama and Chattanooga Railroad?

A. I know that the locomotive D. N. Stanton, (No. 11,) was the property of the Alabama and Chattanooga Railroad at the time of the seizure of said road by the State of Alabama, and that the said locomotive is now in the possession of the Alabama Central Railroad Company, and has been used in regular service on said road; said locomotive was transferred to the Alabama Central Railroad Company, in the early part of the month of August, 1871.

Q. Do you know by whose authority such disposition of said locomotive was made?

A. I suppose the disposition to have been made by order of H. F. Wheeler, the assistant general superintendent of the Alabama and Chattanooga Railroad at that time.

W. A. CRAWFORD.

361 Sworn to and subscribed before me this 6th day of January, 1872.

C. O. WHITNEY,
Chairman Senate Committee.

Testimony of Wm. Johnson.

Q. What is your name, age, residence, and occupation?

A. My name is Wm. Johnson; am thirty-seven years of age; reside in Springfield, Illinois, and by occupation am a railroad engineer.

Q. Were you at any time connected with the Alabama and Chattanooga Railroad?

A. I was not.

Q. How long have you been in railroad business?

A. Twenty years.

Q. Have you at any time been engaged in the construction of railroads?

A. I have.

Q. Do you think you could correctly estimate the cost of work done on the Alabama and Chattanooga Railroad since the seizure of said road by the State, if said work was indicated to you?

362 A. I think I can.

WM. JOHNSON.

Sworn and subscribed to this 6th day of January, 1872.

C. O. WHITNEY,
Chairman of Committee.

Testimony of J. C. Stoneburner.

Q. What is your name, age, place of residence, and occupation?

A. My name is J. C. Stoneburner; I am forty-one years of age; reside in Springfield, Illinois, and by occupation a railroad man.

Q. Are you now or have you been at any time connected with the Alabama and Chattanooga Railroad; if so, when, and for what length of time?

A. I have; I was connected with said railroad as conductor, clerk, &c., from May, 1871, to September, 1871.

Q. When in the service of the Alabama and Chattanooga Railroad Company where were you located?

A. At Meridian, Mississippi.

Q. Were you at Meridian when the State authorities took charge of said road?

363 A. I was.

Q. Do you know the person or persons who took charge of the road when said road was seized by the State of Alabama?

A. Col. John H. Gindrat.

Q. Do you know, after the road was thus turned over, who was placed in authority by Col. Gindrat to run and operate said road?

A. H. F. Wheeler was recognized as the acting superintendent under Col. Gindrat.

Q. Do you know anything of any surplus iron rails left over on said road after the completion of the main track?

A. I do.

Q. What was the quantity?

A. I suppose from five to eight miles; lying at Epps, and other points along the road.

Q. Do you know that said iron or any part thereof has been removed from the line of the road?

A. I do.

Q. State by whom, where to, and how much of said iron has been removed?

A. I do not know by whom. Twenty-six car-loads of said iron,
364 containing ten tons each, was shipped from Meridian, Mississippi, via Vicksburg and Meridian Railroad, and St. Louis Packet Company, consigned to F. L. Cobby, St. Louis, care of the St. Louis Packet Company.

Q. What was the date of such shipment?

A. Between the 10th and 15th of September, 1871.

Q. Was this shipment of iron after the seizure of the road by the State of Alabama?

A. It was.

Q. Do you know to whom sold, and at what price?

A. The iron was sold to F. L. Cobby, of St. Louis, for fifty dollars per ton, the money to be remitted on receipt of the iron.

Q. By what means did you obtain this information as to the shipment and sale of said iron?

A. The Alabama and Chattanooga Railroad Company being indebted to me, I followed the iron for the purpose of attaching the same, and thereby ascertained to whom said iron was sold, and the price paid therefor.

Q. Was this iron loaded and removed from the line of the
365 Alabama and Chattanooga Railroad secretly?

A. It was. The first ten car-loads of said iron was removed from the line of the Alabama and Chattanooga Railroad at night to the line of the Vicksburg and Meridian Railroad.

Q. Do you know of any other property of the said railroad sold or hypothecated by the agents of the State since the seizure of said road?

A. I do.

Q. State what, and to whom, and the facts connected therewith, as far as you know.

A. There was from twelve to fourteen boxes of axes and adzes taken from the company shops at Meridian, Mississippi, to the residence of James McKay, master mechanic of the company at that place, and next day taken to the store of Fallen & Co., in which store H. F. Wheeler was a partner at that time. The locomotive D. N. Stanton was transferred at night from the Alabama and Chattanooga Railroad track
366 to the track of the Alabama Central Railroad, at York station, which latter company have been using it ever since.

Q. Do you know that the right to run trains over the track of the

Alabama and Chattanooga Railroad, between York station and Meridian, has been leased to the Alabama and Central Railroad?

A. I do.

Q. Do you know upon what terms and conditions? If so, state them.

A. Capt. Wallace, superintendent of the Alabama Central Railroad, told me that the right to run trains over said track was leased for one thousand dollars per month, and that ten thousand dollars was advanced to agents of the State, and the locomotive D. N. Stanton hypothecated to secure the payment thereof.

The witness here exhibited the following letters, which he asked to be filed to substantiate his testimony.

J. C. STONEBURNER.

Subscribed and sworn to this 6th day of January, 1872.

C. O. WHITNEY,
Chairman Committee.

367 *Testimony of R. W. Chapel.*

Q. What is your name, age, place of residence, and occupation?

A. My name is R. W. Chapel; I am thirty-one years of age; reside in Chattanooga, Tenn., and by occupation a railroad conductor.

Q. Have you ever been connected in any way with the Alabama and Chattanooga Railroad?

A. I have not.

Q. Do you know anything of the sale of any railroad iron by the agents of the State of Alabama, belonging to the Alabama and Chattanooga Railroad? If so, state what you know.

A. I do; I went to St. Louis at the instigation of Mr. J. C. Stoneburner, and there learned that railroad iron belonging to the Alabama and Chattanooga Railroad was sold and consigned to L. F. Cobby, St. Louis; and that said iron was then between Cairo and Vicksburg detained by low water.

Q. Have you ever had any conversation with Mr. Wheeler relative to the sale of said railroad iron?

A. I have.

Q. What was that conversation?

368 A. Mr. Wheeler told me that he had sold the iron, and received the money for the same before it left Meridian, Mississippi.

R. W. CHAPEL.

Subscribed and sworn to this 8th day of January, 1872.

C. O. WHITNEY,
Chairman.

Testimony of R. C. Randolph.

Q. What is your name, age, place of residence, and occupation?

A. My name is R. C. Randolph; I am thirty-three years of age; reside in Birmingham, and by occupation treasurer of the Alabama and Chattanooga Railroad.

Q. How long have you been connected with the Alabama and Chattanooga Railroad?

A. Since the 16th of August, 1871.

Q. Are you familiar with the property owned by the Alabama and Chattanooga Railroad at the time of the seizure of said road by the State of Alabama?

A. I cannot say that I am.

Q. Do you know of the sale, hypothecation, or other disposition of

any iron, locomotives, or other property, belonging to said rail-
369 road, after its seizure by the State of Alabama?

A. I know of a lot of old iron with which the track had been laid between Meridian and York, a part of which had been burned during Sherman's raid, having been sold; all of which had been taken up and replaced by new iron.

Q. State the quantity, if you know, of iron sold.

A. I do not know the quantity of iron sold.

Q. Do you know for what sum of money said iron was sold?

A. I do; it sold for four thousand three hundred and twelve dollars, less two hundred and forty-three $\frac{25}{100}$ dollars for expenses, as returned to me as treasurer of said railroad.

Q. Do you know of the sale, at any time, of any new iron, or of any other iron rails than those mentioned in your foregoing answer?

A. I do not.

Q. By whom was the aforesaid iron sold, when, and by whose authority?

370 A. The iron was sold by H. F. Wheeler, assistant superintendent of said railroad, acting, as I understand, at that time, under instructions from Colonel Gindrat. The sales took place about the latter part of September, or first of October, 1871.

Q. To whom was said iron sold?

A. I do not know.

Q. Did you, as treasurer of said railroad, receive the money from the purchasers, for which said iron was sold?

A. I did; it was sent me by the purchasers, as directed by the assistant superintendent of said road.

Re-examined:

Q. Did you bring the books and papers connected with your office with you?

A. I did not.

Q. Was there anything to prevent you from doing so? If so, state it.

A. The books and vouchers were in constant use at the office, and could not be taken from there without injury to the interest of the road.

Q. Do you refuse to bring the books and vouchers of your office
371 before this committee?

A. I do not.

Q. Will you bring the books, vouchers, and papers connected with your office, before this committee?

A. I decline to do so without an order from the general superintendent of the road; but the books, vouchers, and papers are subject to the inspection of the committee in my office in Birmingham.

Q. Do you refuse to bring said books and papers before this committee on its order?

A. I do, for the reasons above stated.

R. C. RANDOLPH.

Subscribed and sworn to this 8th day of January, 1872.

C. O. WHITNEY,
Chairman.

Testimony of H. F. Wheeler.

Q. What is your name, age, place of residence, and occupation?

A. My name is H. F. Wheeler; I am thirty-two years of age; reside in Eutaw, Alabama, and by occupation superintendent of the
372 Alabama and Chattanooga Railroad.

Alabama and Chattanooga Railroad, between York station and Meridian, has been leased to the Alabama and Central Railroad?

A. I do.

Q. Do you know upon what terms and conditions? If so, state them.

A. Capt. Wallace, superintendent of the Alabama Central Railroad, told me that the right to run trains over said track was leased for one thousand dollars per month, and that ten thousand dollars was advanced to agents of the State, and the locomotive D. N. Stanton hypothecated to secure the payment thereof.

The witness here exhibited the following letters, which he asked to be filed to substantiate his testimony.

J. C. STONEBURNER.

Subscribed and sworn to this 6th day of January, 1872.

C. O. WHITNEY,
Chairman Committee.

367 *Testimony of R. W. Chapel.*

Q. What is your name, age, place of residence, and occupation?

A. My name is R. W. Chapel; I am thirty-one years of age; reside in Chattanooga, Tenn., and by occupation a railroad conductor.

Q. Have you ever been connected in any way with the Alabama and Chattanooga Railroad?

A. I have not.

Q. Do you know anything of the sale of any railroad iron by the agents of the State of Alabama, belonging to the Alabama and Chattanooga Railroad? If so, state what you know.

A. I do; I went to St. Louis at the instigation of Mr. J. C. Stoneburner, and there learned that railroad iron belonging to the Alabama and Chattanooga Railroad was sold and consigned to L. F. Cobby, St. Louis; and that said iron was then between Cairo and Vicksburg detained by low water.

Q. Have you ever had any conversation with Mr. Wheeler relative to the sale of said railroad iron?

A. I have.

Q. What was that conversation?

368 A. Mr. Wheeler told me that he had sold the iron, and received the money for the same before it left Meridian, Mississippi.

R. W. CHAPEL.

Subscribed and sworn to this 8th day of January, 1872.

C. O. WHITNEY,
Chairman.

Testimony of R. C. Randolph.

Q. What is your name, age, place of residence, and occupation?

A. My name is R. C. Randolph; I am thirty-three years of age; reside in Birmingham, and by occupation treasurer of the Alabama and Chattanooga Railroad.

Q. How long have you been connected with the Alabama and Chattanooga Railroad?

A. Since the 16th of August, 1871.

Q. Are you familiar with the property owned by the Alabama and Chattanooga Railroad at the time of the seizure of said road by the State of Alabama?

A. I cannot say that I am.

Q. Do you know of the sale, hypothecation, or other disposition of

any iron, locomotives, or other property, belonging to said rail-
369 road, after its seizure by the State of Alabama?

A. I know of a lot of old iron with which the track had been laid between Meridian and York, a part of which had been burned during Sherman's raid, having been sold; all of which had been taken up and replaced by new iron.

Q. State the quantity, if you know, of iron sold.

A. I do not know the quantity of iron sold.

Q. Do you know for what sum of money said iron was sold?

A. I do; it sold for four thousand three hundred and twelve dollars, less two hundred and forty-three $\frac{25}{100}$ dollars for expenses, as returned to me as treasurer of said railroad.

Q. Do you know of the sale, at any time, of any new iron, or of any other iron rails than those mentioned in your foregoing answer?

A. I do not.

Q. By whom was the aforesaid iron sold, when, and by whose authority?

370 A. The iron was sold by H. F. Wheeler, assistant superintendent of said railroad, acting, as I understand, at that time, under instructions from Colonel Gindrat. The sales took place about the latter part of September, or first of October, 1871.

Q. To whom was said iron sold?

A. I do not know.

Q. Did you, as treasurer of said railroad, receive the money from the purchasers, for which said iron was sold?

A. I did; it was sent me by the purchasers, as directed by the assistant superintendent of said road.

Re-examined:

Q. Did you bring the books and papers connected with your office with you?

A. I did not.

Q. Was there anything to prevent you from doing so? If so, state it.

A. The books and vouchers were in constant use at the office, and could not be taken from there without injury to the interest of the road.

Q. Do you refuse to bring the books and vouchers of your office
371 before this committee?

A. I do not.

Q. Will you bring the books, vouchers, and papers connected with your office, before this committee?

A. I decline to do so without an order from the general superintendent of the road; but the books, vouchers, and papers are subject to the inspection of the committee in my office in Birmingham.

Q. Do you refuse to bring said books and papers before this committee on its order?

A. I do, for the reasons above stated.

R. C. RANDOLPH.

Subscribed and sworn to this 8th day of January, 1872.

C. O. WHITNEY,
Chairman.

Testimony of H. F. Wheeler.

Q. What is your name, age, place of residence, and occupation?

A. My name is H. F. Wheeler; I am thirty-two years of age; reside in Eutaw, Alabama, and by occupation superintendent of the
372 Alabama and Chattanooga Railroad.

Q. Have you been acting as superintendent of the Alabama and Chattanooga Railroad since the seizure of said road by the State of Alabama?

A. I have, and am still acting in that capacity.

Q. State what you know of the sale, hypothecation, or other disposition of any iron rails, locomotives, or other property belonging to said railroad since its seizure by the State of Alabama.

A. I sold some old iron rails that had been taken up and replaced by new rails, between Meridian and York station, supposed to be about one hundred tons. The rails was worn and unfit for use, and only valuable to convert into new rails by re-rolling. There was no new rails sold. The price received for said old rails was about forty dollars per ton. Part of said iron was sold to the Vicksburg and Meridian Railroad Company, and to Cobby & Co., St. Louis. Said iron brought about four thousand dollars, which amount I received from the parties to which the
373 iron was sold, and turned over to Capt. Randolph, treasurer of the said railroad. It is my understanding that Col. Gindrat, the receiver of said railroad, entered into an agreement with the Alabama Central Railroad Company by which that company acquired the right to run their trains over that part of the Alabama and Chattanooga Railroad lying between Meridian and York Station, for, I think, one thousand dollars per month, and the locomotive, D. H. Stanton, (No. 11,) was transferred to the said Alabama Central Railroad Company as collateral security for an advance of ten thousand dollars made by said Alabama Central Railroad Company to the receiver of the Alabama and Chattanooga Railroad, which locomotive is to be returned to the Alabama and Chattanooga Railroad when the lease shall liquidate the ten thousand dollars thus advanced. I know nothing of the sale, hypothecation, or other disposition of any other property.

Re-examined:

Q. Are you as assistant general superintendent of the said road
374 not in charge of all the books and papers of said road?

A. I am not.

Q. Who has charge of the conducting and running the Alabama and Chattanooga Railroad?

A. I have, in the absence of Col. Gindrat.

Q. Are the officers and employees of the Alabama and Chattanooga Railroad, except the treasurer and Col. Gindrat, subject to your orders?

A. In the absence of Col. Gindrat, they are.

Q. Had you ordered the general ticket-agent and other minor officers of the Alabama and Chattanooga Railroad to bring you the books and papers, would they not have done so?

A. They would; all that they could.

Q. Have you ordered those minor officers, &c., to furnish you with the books and papers?

A. I have.

Q. Will you furnish all the books and papers, or a transcript thereof, under your control; and, if so, how soon?

A. I will, in ten days, if not ordered otherwise by the general
375 superintendent.

H. F. WHEELER.

Sworn to and subscribed before me this 8th day of January, 1872.

C. O. WHITNEY,
Chairman.

Testimony of W. H. Spalding.

Q. What is your name, age, place of residence, and occupation?

A. My name is W. H. Spalding; I am forty-seven years of age, and reside at present at Montgomery, Alabama; my occupation is railroading and transfer business.

Q. Have you at any time been connected with the Alabama and Chattanooga Railroad?

A. I have; formerly as foreman of construction on said road, and latterly as depot baggage-master at Meridian, Mississippi.

Q. Were you in the employ of said railroad after its seizure by the State of Alabama?

A. I was.

Q. Do you know of the removal of any railroad iron from the
376 line of said road after its seizure by the State?

A. I do; Mr. Wheeler and myself loaded five cars with railroad iron between Meridian and Toomsuba, and transferred it to the yard of the Vicksburg and Meridian Railroad at Meridian, Mississippi. Mr. Wagoner, then acting head clerk for Mr. Wheeler, gave me an order to go to the agent of the Vicksburg and Meridian Railroad and ship said iron to parties in St. Louis, care of Vicksburg and St. Louis Packet Company, which order I obeyed.

Q. Was the iron of which you speak old or new?

A. It was mostly old iron.

Q. Do you know of any new railroad iron lying along the line of said road after its seizure by the State, and prior to the date of the loading and shipping of the aforesaid old iron?

A. I do; there was a pile of new iron rails lying at Toomsuba, and another at Epps, which I saw in passing over the road with Mr. Eagan, on a hand-car.

Q. About what quantity of iron was there in those two piles?
377 A. About ten car-loads or one hundred tons.

Q. Has said iron been removed?

A. It has; but I do not know what became of it.

W. H. SPALDING.

Subscribed and sworn to this 10th day of January, 1872.

C. O. WHITNEY,
Chairman.

Testimony of James P. Stanton.

Q. State your name, age, place of residence, and occupation.

A. My name is James P. Stanton; I am thirty years of age; reside in Chattanooga, Tenn., and by occupation railroading.

Q. Have you at any time been connected with the *been* Alabama and Chattanooga Railroad, and, if so, in what capacity and what length of time?

A. I was superintendent of construction of the northern division from Chattanooga to a point twenty miles below Tuscaloosa.

Q. Can you inform us of the quantity of new railroad-iron rails left over on the line of said road after the completion of the main track?

378 A. On the part of the road of which I had charge, there was about sixteen car-loads of new iron left over, as estimated by myself and track-men on the completion of said railroad track.

Q. Is said iron on the line of said road at the present time, where it was left?

A. It is not.

Q. Was this iron removed before or after the seizure of said road by the State of Alabama?

A. It was removed after the seizure of the road by the State.

Q. Were there any spikes, bolts, fish-plates, &c., left over after the completion of the main track?

A. There was enough to lay the iron that was left over.

J. P. STANTON.

Subscribed and sworn to this 13th of January, 1872.

C. O. WHITNEY,
Chairman.

Testimony of T. J. Allison.

Q. What is your name, age, residence, and occupation?

A. My name is T. J. Allison; I am thirty-two years of age; reside in Trenton, Georgia, and by occupation railroad master and supervisor.

Q. Have you at any time been connected with the Alabama and Chattanooga Railroad; and, if so, for what length of time, and in what capacity?

A. I was connected with said road for about twelve months in the capacity of road-master of the northern division previous to the seizure of the road by the State of Alabama, and left the road at the time of the said seizure. I was again employed the present month, (January,) and am now acting as road-master of the northern division of said road. I was well acquainted with the condition of the said road from Chattanooga to Attala, which was in first-rate condition; the balance was not so good. The road is now in a much worse condition than it was at the time of said seizure; the rolling-stock and track, in my opinion, has been seriously injured by mismanagement since the road was seized by the State of Alabama. The feeling and sentiments of the employees and citizens along the line of said road is one of universal condemnation of the present management, and many of the creditors of the road have expressed a willingness to relinquish their claims against said road if they could thereby secure a good management; the employees of the road are not being paid or rationed, and great demoralization exists among them. I consider the rates of transportation too excessive, and merchants and citizens do not consider it safe to ship any freight over the line of said road since the seizure of the road by the State; the said road, in my opinion, was managed and conducted satisfactory to the citizens along the line of said road, and all parties concerned, previous to its seizure by the State. There is now regularity between the northern and southern division in the connection of trains, making it very inconvenient for passengers and the public generally. Many of the present employees of the said road are reckless, irresponsible, and incompetent. In consequence of not being paid, the track-hands have all left, and at the present time there are no men to work on the line between Attalla and Chattanooga. Gen. Wofford is managing the road from Attala to Chattanooga, and Major Wheeler is managing the road from Attala to Meridian, Miss. There is great antagonism between the said managers, and the interests of the road suffers accordingly.

T. J. ALLISON.

Subscribed and sworn to this 15th day of January, 1872.

C. O. WHITNEY,
Chairman.

Testimony of J. C. Stanton.

Q. State your name, age, residence, and occupation.

A. My name is J. C. Stanton; I am fifty years of age; reside in Massachusetts, and my occupation is railroading.

Q. Have you at any time been connected with the Alabama and Chattanooga Railroad Company; and, if so, for what length of time, and in what capacity?

A. I have been connected with the Alabama and Chattanooga
382 Railroad Company, as general superintendent, from the commencement of the work on the railroad about three years ago, and am still connected with said road in the same capacity.

Q. State all you know as to the condition of the road, rolling-stock and other property, at the time said road was seized by the State of Alabama; also, what you know of damage done said property, if any, since said seizure, and its present condition; and what you know of the efficiency or inefficiency of the present management of the road.

A. I completed the main track about the 15th day of May, 1871, and run cars through the next day; I run the 295 miles in twelve hours and thirty minutes, making up the deficiency between the Nashville and Mobile time, and running through in twelve hours. I had built up a good business, had secured the United States mail, and had established a through line from New York to New Orleans, making seven hours shorter
383 time than any other route. The road was in first-class condition for a new road, with the exception of about fifteen miles; seven miles of the track diverges from the main line of the road and was put down temporarily. If the road had not been seized, this temporary track would have been removed to the permanent line; there is some temporary trussel on the line of the road which I had put down for the purpose of expediting its construction, which would have been replaced in a short time had I kept possession of the road. The chief engineer estimated that two hundred and fifty dollars would complete the entire road, putting the iron on to the main line, and building permanent trestles in place of the temporary ones, and ballasting the road about forty miles in the worst places, which would have made the road first-class in every particular. I offered to do this work for the company for two hundred and twenty-five thousand dollars. Such was the condition of the road at the time of its seizure by the State of Alabama. There was nineteen locomotives on the road at the
384 time it was seized by the State, eighteen of which was first class; over one hundred freight-cars, most of them new and in good condition; six passenger-coaches, and two Wadley cars, all of which were first-class, and two second-class coaches, mail and baggage cars enough to do the business; hand-cars and tools of every kind sufficient to keep up the track. I was running, daily, two passenger-trains each way, one of which was an express-train, one or two freight-trains, and was doing a fine business for a new road, which business was increasing daily. The company had machine-shops and machinery of all kinds for repairing and building freight and passenger cars for the use of the road at the time of the said seizure, and was building freight and baggage cars; was building two box-cars every three days, or one flat car a day, besides the repairs on the other machinery; we had a large quantity of lumber, car-wheels, and other material for the construction of cars at the time of the said seizure. The company had over four hundred thousand dollars' worth
385 of property at Chattanooga when the State took possession of the road, of all kinds of material, stationery, oil, and everything nec-

essary to run a railroad. I believe that if the company was suffered to continue in possession of the road it would have earned in the first twelve months over one million and a half dollars; and I think it could have been run for forty or sixty per cent. of the above amount, if properly managed. The road at the present time from Chattanooga to Birmingham does not look as if there had been any or much of any work done on it since its seizure by the State. I have not been over the other portion of the road since said seizure. From what I have seen of the present management of the road I consider it very bad; I have noticed the rolling-stock of all kinds, locomotives, cars, &c., as they came into Chattanooga, and I never in my life saw rolling-stock so badly damaged in the same length of time; it would not bring at the present time one-third of what it was worth when the road was seized by the
386 State. The present assistant superintendent, Major Wheeler, and quite a number of the men under him, who have charge of the said road, are men who I discharged for misconduct and inefficiency. Since they have had charge of the road they have had collisions, run cars off into ditches, and stove them up generally, as I understand. The road, rolling-stock, and company have been damaged by the seizure more than one million of dollars, and if the road is allowed to be sold in its present condition it will not bring more than one-half as much as it would were it fixed up and put in proper shape, and show the public what it could earn. I believe it could be made one of the best paying roads in the South. If the road is sold now it will bring a mere nominal sum, and poor families, mechanics, and laborers of all kinds would be the loser; and it will be bought in by speculators who have made their money by catching up roads in the same condition as this.

J. C. STANTON.

387 Subscribed and sworn to this 17th day of January, 1872.

C. O. WHITNEY,
Chairman.

Testimony of Gen. J. T. Wilder.

Q. What is your name, age, place of residence, and occupation?

A. My name is J. T. Wilder; I am forty-one years of age; reside in Chattanooga, Tenn., and by occupation general superintendent of the Roane Iron-Works, at Chattanooga, Tennessee.

Q. Have you ever been connected with the Alabama and Chattanooga Railroad?

A. I have not.

Q. What do you know of the condition of the road when taken possession of by the State of Alabama?

A. I have been over the road after its completion as far as Tuscaloosa. I have never rode over a better road for a new one in any part of the country. The rolling-stock was first class and kept in good condition. I am a practical machinist myself and know when machinery is
388 in good condition; for the time it run it did a good business, giving good satisfaction to people living along the line of the road; never heard of any complaint until after its seizure. Shops, depots, and side-tracks at short intervals were of the very best; in fact better than on any new road in the South. The manner in which this road was built, depots, shops, side-tracks, water-tanks, road-bed properly drained, would cost, in my judgment, at least one-fourth more than any new road in the South.

Q. Do you know anything of the management of the road since its s izure?

A. The rolling-stock is being run down and out of repair; the upper end of the road-bed keeps up wonderfully, being of most excellent material. Below Attala, down to Birmingham, it is in bad condition, unsafe and dangerous to travel on, while the accommodations for business are totally unequal to the necessities of the people. Business men are unwilling to join in enterprises dependent on the road for their
389 success, they having no faith in the present management. Large iron-manufacturers who have investments in mineral lands along its line said to me last month that they had postponed indefinitely any improvements or works along its line, believing that, so long as the State operated the road, it would be subject to changes inimical to business interests, and especially so to manufacturing enterprises.

Q. What, in your judgment, has been the damage to the Alabama and Chattanooga Railroad Company by its seizure?

A. That is difficult to estimate. Were the road mine, I should consider the damage at least fifty per cent.

Q. Has the seizure of the road by the State of Alabama been damaging to the interests of the State?

A. The damage to the iron and business interests along the line is, in my judgment, almost irreparable, occurring, as it did, at a time when so much enterprise and capital was preparing to embark in the
390 developement of the great mineral resources along the region through which the road is located, causing a distrust and delay which nothing but the continuous and successful operation of the road will replace, and postponing their commencement, by safe and skillful parties who own the best sites, to an indefinite time, throwing the capital into distant enterprises, thus hazarding and delaying the developement of the greatest resources of the State, for the developement of which this line of road was specially intended.

J. T. WILDER.

Subscribed and sworn to this 18th day of January, 1872.

C. O. WHITNEY,
Chairman.

Testimony of C. B. Wallace.

Q. What is your name, age, residence, and occupation?

A. My name is C. B. Wallace. I am thirty-six years of age; reside in Selma, Alabama, and by occupation, railroading.

Q. State if you have been at any time connected with the Alabama Central Railroad; and, if so, in what capacity.

391 A. I was connected with said road from about the first of July, 1871, to the first of January, 1872, as superintendent.

Q. Did you receive, while superintendent of said road, a locomotive from the Alabama and Chattanoga Railroad as security for money advanced the latter road since its seizure by the State of Alabama?

A. Under contract made between the Alabama and Chattanooga Railroad, by Col. Gindrat, as receiver of said road, and the Alabama Central Railroad Company, I received engine D. N. Stanton, as collateral security for the fulfillment of said contract, which was the lease of the line of the Alabama and Chattanooga Railroad from Meridian, Mississippi, to York Station, for one thousand dollars per month.

CHAS. B. WALLACE.

Subscribed and sworn to this 18th day of January, 1872.

C. O. WHITNEY,
Chairman.

392 *Testimony of T. G. Garrett.*

Q. What is your name, age, place of residence, and occupation?

A. My name is T. G. Garrett; I am twenty-six years of age; at present I reside in Chattanooga, Tenn.; and by occupation special agent for the State of Alabama, looking after its interest in regard to the Alabama and Chattanooga Railroad.

Q. Have you been over the line of the Alabama and Chattanooga Railroad since its seizure by the State of Alabama? If so, state its condition.

A. I have been over the road between Chattanooga and Birmingham within the last three weeks, and found a portion of the road between Attala and Birmingham in very bad condition.

Q. Are there any section-men at work on the line of said road between Attala and Birmingham?

A. I do not know. I have seen none at work except at Birmingham.

Q. State what you know of the present management of the said road?

A. I know but very little of the management of the road, having
393 been in Chattanooga nearly all the time.

Q. Is the said road receiving any freight from other roads and merchants at the present time?

A. From what I can learn, the A. and C. R. R. is receiving but very little. I am informed by merchants and others at Chattanooga that they do not ship by said road, as they do not want their goods to lay over at Attala.

Q. What is the condition of the rolling-stock on said road, as far as you know?

A. The rolling-stock that has been under my care is in need of repairs, it having been run a long time without proper attention.

Q. Do you know whether or not the employees on said road have been paid regularly since its seizure by the State?

A. I have been informed by the men themselves that they have not been paid regularly, and some have not been paid since October, 1871, and some since November, 1871, and some of them not at all, and
394 there is a good deal of complaint among the men on account of their receiving no pay.

T. G. GARRETT.

Sworn to and subscribed before me this 23rd day of January, 1872.

C. O. WHITNEY,
Chairman Senate Committee.

Testimony of W. W. Simpson.

Q. What is your name, age, place of residence, and occupation?

A. My name is W. W. Simpson; I am twenty-seven years of age; reside in Chattanooga, Tenn.; and a book-keeper by occupation.

Q. Have you at any time been connected with the A. & C. R. R.; and, if so, in what capacity?

A. I have been connected with the A. & C. R. R. for about a year and a half as book-keeper of said road at Chattanooga, Tenn., and am now employed in the same capacity by Gen. Wofford, who is receiver of said road for the State of Georgia.

395 Q. State all you know in reference to the management of the A. & C. R. R. since its seizure by the State of Alabama.

A. On the 13th day of last November a contract was entered into

between Col. Gindrat and Gen. Wofford, in Chattanooga, Tenn., providing for the running of the A. & C. R. R. under their joint management. The contract provided that from the gross receipts of the road, first the running expenses were to be paid; Col. Gindrat was to pay for all construction-expenses in Mississippi, Alabama, and Tennessee, and Gen. Wofford was to pay all expenses of construction in Georgia; then the freights, if any, were to be divided in proportion to the number of miles of road controlled by each and amount of rolling-stock over which they had respectively jurisdiction; the contract also provided that settlements were to be made monthly; either one of the parties to the contract could have it dissolved by giving ten days' notice to the other, or by mutual consent it could be dissolved without notice. Shortly after this Col. Gindrat told Col. W. White, the assistant superintend-
396 ent at Chattanooga, in my presence, to draw on Mr. Randolph, who is treasurer of the road, for whatever money he needed to pay debts contracted in running the Chattanooga end of the road. A contract had been made by Col. Gindrat with the superintendent of the N. & C. R. R., (six miles of whose track had to be used in operating the A. & C. R. R.,) in which he agreed to pay the N. & C. R. R. one dollar for each loaded car and locomotive passing over said road. The toll-account was presented weekly; Col. White frequently called on Mr. Randolph for money to pay the toll without success; he also drew on him, as Col. Gindrat directed, for money to meet other claims, but always failed in getting it. On or about the 5th day of December, 1871, the superintendent of the N. & C. R. R. stopped the running of A. & C. trains over his road until the toll should be made which was then due; in consequence, the running of the train was stopped until the toll was paid, which was about six hours; all of which was due to the fact that Mr.
397 Randolph failed to send money he was repeatedly asked for by telegraph to meet these tolls; after that Mr. Randolph sent $150.00 to pay tolls, and some time after that $500.00 more for the same purpose, which I believe to be all the money ever sent by him to Chattanooga for the use of the road. On the 26th of December, 1871, without giving Gen. Wofford the notice provided for in the contract, or any notice whatever, Col. Gindrat, or his representative, Mr. Wheeler, stopped the trains that were then en route to Chattanoogo, and have since allowed no trains to run north of Attala, which is eighty-seven miles south of Chattanooga. About the last of December, 1871, Mr. Randolph telegraphed Col. H. T. Price, local treasurer at Chattanooga, to report to him in person with his books and papers; in obedience to that order, Col. Price and myself reported with books and papers to him at Birmingham, on or about the 4th day of January, 1872; we found Mr. Randolph, but he in a few minutes after left for Tusca-
398 loosa, informing Mr. Price that business called him away, and that his assistant, Mr. Burton, would attend to him. Col. Price and myself called on Mr. Burton, and rendered to him an itemized statement of the cash received and paid from the treasurer's office in Chattanooga; we called on Mr. Burton for a similar statement; he promised to furnish it, but failed to do so, after putting us off from time to time. Col. Price told Burton the Mr. Randolph had said that the road was still due the men along the line about $8,000 for work done in the month of November; Burton thought that was a small estimate, and still he said there was no money on hand; the pay for the work they had done in December was also due the men; none had been paid for that month's work. Col. Price failed to get any money to pay the men; from Attala to Chattanooga, between those points, there are now no men

at work on the track, and its condition is getting worse every day; the men are needy and are clamorous for their pay, and refuse to work until they are paid. Owing to the stopping of the road at Attala,
399 freights are being sent by way of Dalton to points on the A. & C. R. R. south of Attala. Travel is also turned in other directions; freights that have been shipped by way of A. & C. R. have been detained many days at Attala. In addition to loss of freight and travel, large quantities of stock are shipped by other routes that would go by the A. & C. Railroad. The through mail, that would pay one hundred thousand dollars a year, is also lost by the unreliable management of the road.

Subscribed and sworn to this 24th day of January, 1872.

C. O. WHITNEY,
Chairman.

Testimony of Thomas P. McMillin.

I am twenty-eight years of age; reside in Chattanooga, Tenn., and by occupation railroading. I have been connected with the A. & C. R. R. for two years and a half; a local freight-agent at Chattanooga.
400 I know very little as to the condition of the road except from hearsay, having never been over it; that part of the rolling-stock with which I am acquainted is in bad order, cars having been damaged by some of the employees; the authorities in charge of the northern division have had some cars put in running order, sent them out on the line of the road, and they were never returned. The road has been so managed by a portion of its officers as to drive off all through freight and passenger trade, there being at the commencement of its operations no favors shown to shippers in the way of tariffs. A short time since, about Christmas, the trains were stopped running through to Chattanooga, by an order from H. F. Wheeler, this very materially crippled its operations, as parties could not tell anything about when they could get their goods or what it would cost them; parties along the line of road then ordered their freights by other routes; since the stoppage of through trains persons below Attala have been unable to get any-
401 thing shipped to Chattanooga or points beyond, and connections were so frequently missed by mail-trains that passengers ceased to travel this route. Freights have frequently been taken from my depot by merchants here, under order from consignees, and sent round by S., R. & D. R. R., they alleging that it took a month to get goods from Chattanooga to their respective stations; shippers in many instances have had goods thrown back upon them by delays. The business we are now doing is almost done exclusively with the M. & O. cars, no A. & C. cars being permitted to run north of Attala.

T. P. McMILLIN.

Sworn and subscribed to this 26th day of January, 1872.

C. O. WHITNEY,
Chairman.

402 *Testimony of Erastus V. Johnson.*

My name is Erastus V. Johnson: age, 44; live in Ringgold, Ga.; occupation, general freight and ticket agent A. & C. R. R. Co. I have never been over the whole line of the road; that portion which I have been over, viz, from Birmingham to Chattanooga, is in a good average condition—not first class; I am not prepared to give a definite answer as to the condition of the rolling-stock of the road; my acquaintance

and knowledge of the road commences with my appointment as general freight and ticket agent, December 18th, 1871; and I will say, to the best of my knowledge, that the road's business, since my connection with it, has been very badly managed upon the part of H. F. Wheeler, by the interruption and stoppage of the trains at Attala, at a time when business was presenting itself to the road from every quarter, and in a manner which would have unquestionably been very remunerative to the road; my convictions are that if the road had been well
403 managed since its seizure by the State of Alabama, that its income could have been worked up to eighty or one hundred thousand dollars per month by this time. The trains have since been run very uniformly between Chattanooga and Attala, and a business connection tendered with the south end of road, under the control of H. F. Wheeler. The tender was partially accepted by Wheeler, but never carried out in good faith by said Wheeler, controlling the southern end of the road.

E. V. JOHNSON.

Subscribed and sworn to this 26th day of January, 1872.

C. O. WHITNEY,
Chairman.

Testimony of James M. Anderson.

I am thirty-four years of age; reside in Chattanooga, Tenn., and by occupation a produce and commission merchant, of the firm of
404 Anderson, Patton & Co.; never was connected with A. & C. R. R. I have suffered very materially from the bad management of the road, caused by the interference of the officers of the southern division; the officers of north division have invariably given me all the assistance in their power to facilitate the prompt shipment and delivery of freights; I have had freights laying at points north of Attala for some three months awaiting shipments south, and have been unable to get cars from below to ship them, notwithstanding repeated calls have been made by the officers in charge at Chattanooga for cars in which to ship. I have had corn shipped three weeks since from Morganville to Tuscaloosa not to hand yet; on account of this great delay and high tariff, trade has been almost entirely destroyed with that section of country. I have repeatedly had letters from merchants south of Attala to get their freights from the other roads terminating at
405 Chattanooga and reship via S., R. & D. R. R. I am entirely that Gen. Wofford and his officers on the northern division of the road have done everything in their power to facilitate shipments and do justice to all parties. As to the condition of the rolling I know nothing, as I seldom ever see an A. & C. car; am not competent to judge the condition of the road, having no experience in that line of business.

J. M. ANDERSON.

Subscribed and sworn to this 26th day of January, 1872.

C. O. WHITNEY,
Chairman.

Testimony of William T. Goodwin.

I am forty years of age; reside in Chattanooga, Tenn.; by occupation a merchant, of the firm of Divine & Goodwin, wholesale grocers; never was connected with the A. & C. R. R.; from the shipping I have done I have had an immense amount of trouble, and thoroughly satis-
406 fied it has not been the fault of the officers at Chattanooga, as they have uniformly given me every facility for shipping in their

power, crippled as they were by their rolling-stock having been taken and retained on the south division; the great trouble seemed to be at Attala, caused by authorities at that place of south division not paying freight and back charges promptly; I have in several instances taken goods from the A. & C. depot and sent them by the S., R. & D. R. R., under instructions from the parties to whom they were consigned, and have now positive orders to take goods from the connections at Chattanooga and send by the other routes until the road is more efficiently managed. I saw at Attala yesterday a large quantity of freights in hands of officers of the northern division ready for delivery, but the agent informed me they would not receive them; about the last of December,
I made a shipment of goods from Chattanooga to Elyton, and they
407 had not reached their destination a few days since; on tracing, I find they left Chattanooga promptly, and must have been detained at Attala. I am satisfied, from the bad management of the road on the part of the officers of south division, that it is loosing an immense amount of freights and passenger travel. As regards the condition of the rolling-stock, I know very little, as a very little of it ever gets up as high as Chattanooga that I see; not being a railroad man, am not competent to judge as to its condition.

W. T. GODWIN.

Subscribed and sworn to this 26th day of January, 1872.

C. O. WHITNEY,
Chairman.

To substantiate the above the testimony I herewith submit the following letters.

ELYTON, ALA., *December* 29, 1871.

Messrs. DIVINE & GOODWIN,
Chattanooga:

408 GENTLEMEN: We are expecting some goods from New York, by way of Chattanooga. You will please see to them and forward them via Calera, care of S. & N. R. R., if the A. C. R. R. is not running through when you receive this.

Respectfully,

J. B. EARL & CO.

SPRINGVILLE, *January* 1, 1871.

Messrs. DIVINE & GOODWIN: Please go to the Air-Line depot, and send J. H. Asborn's goods through, and charge freight to our account.

Yours, respectfully,

KYLER & EARRONES.

BIRMINGHAM, *January* 3, 1872.

Messrs. DIVINE & GOODWIN,
Chattanooga, Tenn.:

GENTLEMEN: If there are any goods in the depot of the Alabama and Chattanooga Railroad for Dupuy and Todd, or Wharton &
409 Jones, please have them shipped via Calera, on the Selma, Rome and Dalton Railroad; and if any freight is to be paid, please pay it, and send us the amount, and we will remit it forthwith.

Respectfully,

DUPUY & TODD.

ELYTON, ALA., *January* 5, 1871.

Messrs. DIVINE & GOODWIN:

GENTLEMEN: We probably have some goods detained in your place, shipped via Va. and Tenn. Air-Line. You will oblige us by ascertaining; and, if so, ship via Rome and Dalton and Calera to Birmingham. We will forward you draft for amount of freight paid.

Respectfully,

HAWKINS & EARL.

410 ELYTON, ALA., *January* 8, 1872.

Messrs. DIVINE & GOODWIN:
Chattanooga, Tenn.:

GENTS: If you cannot get our New York goods off by freight, please send them through by express—we mean the hardware. The yarn and domestic we wish sent by Calera, Ala., care S. & N. R. R.

Respectfully,

J. B. EARLE & CO.

JONESBORO', ALA., *January* 9, 1872.

Messrs. DIVINE & GOODWIN:

GENTLEMEN: Please have the goods purchased from you last shipped round by Dalton, Calera, and Birmingham. Please have all other goods that may be in depot at Chattanooga for us from other places shipped round the same way. By attending to this matter for us you will
411 greatly oblige

Yours, etc.,

J. & C. MCADORY,
Per J. P. M.

BIRMINGHAM, ALA., *January* 9, 1872.

Messrs. DIVINE & GOODWIN,
Chattanooga, Tenn.:

GENTLEMEN: I have car-load of flour in the Nashville and Chattanooga Railroad, which I wish to pay the freight on and have shipped through by the A. & C. Railroad, if you can get it through; if not, have it shipped via Dalton and Calera. Send bill and I will express the money for freight.

Respectfully,

J. H. DUPUY.

412 BIRMINGHAM, ALA., *January* 10*th*, 1871.

Messrs. DIVINE & GOODWIN,
Chattanooga:

GENTS: We will have some goods through your city, at Nashville depot, shipped via A. & C. R. R., in a day or two. Will feel under many obligations if you will see that they are not delayed there; and if necessary to pay back freights, which I don't think will be required, will feel under still greater obligations, and will return what you pay out and charges thereon as soon as bill is sent us.

Yours, respectfully,

TODD & ELLIS,
(Todd, formerly of Dupuy & Todd.)

Testimony of W. T. Wofford.

My name is W. T. Wofford; am forty-seven years old; reside in Cartersville, Ga.; by profession, a lawyer; am at present one of the
413 receivers of the Alabama and Chattanooga Railroad. I am now connected with the A. & C. Railroad as one of the receivers. I have been over the road only from Chattanooga to Birmingham; have not been south of the latter place. The road-bed from Trenton, Ga., to Attala, Ala., is one of the best road-beds I ever saw, and at present is in fair condition in view of the fact that the track-hands have done no work on the road since January 1st. I have been unable to get hands to do any work on the road since that date, on account of the failure to pay for work previously done, as alleged by them in a series of resolutions, of which the following is a true copy:

ATTALA, A. & C. R. R., *Dec.* 28, 1871.

At a meeting of the foremen of all the *the* sections of the A. & C. R. R., from Enterprise to Chattanooga, held for the purpose of devising measures to secure our rights and obtain justice, it was unani-
414 mously

Resolved, 1st, That in view of the fact that from some cause, to us unknown, the complications arising from the conflictions between the two divisions of the A. & C. R. R. have resulted in the non-payment and consequent distress and embarrassment of all the hands, including us, the said foremen, employed to keep up the track of said road on the aforesaid sections; and whereas there seems to be no reasonable hope for improvement in respect to a settlement, as to service rendered by us under the new régime, we hereby unanimously determine and resolve that from and after this date we will do no further work on the track of said road, nor will we willingly suffer any one else so to do, until a fair, square, and full settlement and payment shall have been made to us and the men under us in the employ of said road.

Resolved, 2nd, That while we feel the utmost confidence in
415 the integrity and good faith in the present administration of said road, we respectfully, yet firmly, protest and complain that, while we have in good faith accepted the promises of the officials of said road that we should be paid promptly for our work on said road, we have been so far most disagreeably disappointed; and we earnestly, yet respectfully, ask that we be at once relieved from the embarrassment due to the non-fulfillment of said promises.

Resolved, 3rd, That a copy of these resolutions be forwarded to Gen. W. T. Wofford and Col. J. H. Gindrat, receivers and superintendents A. & C. R. R.

(Signed)	I. C. HOWELL,	*Foreman*	*15th Section.*
	JOHN MAY,	"	*14th* "
	LUCIAS R. FRIZZILL,	"	*12th* "
	J. HOWARD,	"	*11th* "
	J. H. PAYNE,	"	*10th* "
	S. T. BROWN,	"	*9th* "
	W. G. BROWN,	"	*8th* "
	G. A. FELTS,	"	*4th* "
	V. G. PRUITT,	"	*3rd* "

416 I know nothing of the management of the A. & C. R. R. prior to about Nov. 1st, 1871. The State of Alabama filed a bill in the superior court of Dade County, Georgia, asking for an injunction re-

straining the attaching creditors of the Alabama and Chattanooga Railroad Company, and for the appointment of a receiver. The motion on said bill was heard during the regular term of Bartow superior court, held at Cartersville, Ga., September, 1871. His Judge Parrott, presiding, granted the injunction and appointed myself receiver. At the solicitation of General Clanton I left the court, (then in session,) to the neglect of my business, and went with him to Trenton, Ga., filed my bond in the office of the clerk of the superior court of Dade County, and had the order of my appointment entered upon the minutes of said court. I then demanded possession of the rolling-stock, depots,
417 and other property of the road in Georgia. The agents of Governor Bullock refused to surrender the possession of said property. The case was carried to the supreme court of Georgia, which court sustained the decision of Judge Parrott, with the additional instructions to the receiver to negotiate with the governor of Georgia for the possession of that part of the road lying in Georgia; but Gov. Bullock would not consent for the road or rolling-stock to be turned over to the receiver. This effort, I supposed, ended my duties as receiver under the orders of the courts of Georgia. After Gov. Bullock resigned, Col. Gindrat telegraphed to me to see Gov. Conley and endeavour to obtain his consent to allow us to run over the Georgia portion of said road. I immediately went to Atlanta, saw Gov. Conley, and obtained his consent to run the road. I notified Col. Gindrat of that fact, and requested him to meet me at Atlanta. He did so,
418 and, at his request, I went immediately to Chattanooga that night without stopping at my home. I at once proceeded to move the rolling-stock to Chattanooga, and trains started to run through from Meridian to Chattanooga about the first week in November, 1871. Col. Gindrat and his attorney, Gen. O'Neal, met me in Chattanooga on the 13th of Nov., 1871, for the purpose of making a contract with me for running over the Georgia portion of the A. & C. R. R., and for the use of the rolling-stock—(3) three engines and (34) thirty-four cars—that had been attached by creditors in Georgia. I asked Col. Gindrat to make me a proposition, but he declined and suggested that I should make him an offer. Whereupon I submitted to him the two propositions following: 1st, to accept his (Col. G.'s) own suggestion, made to me at Atlanta, namely, for me to run to Attala, and pro rata with
419 him as a connecting road; or, 2nd, to rent him the rolling-stock in my possession, and also charge him so much for each car that should pass over the Georgia portion of the road.

After considerable hesitation and delay, Col. Gindrat declined both of my propositions, and proposed himself a contract, under which we finally agreed to operate the road, which contract is as follows: (Here introduced written contract, a copy of which is hereto attached, marked "Ex. No. 2,") by which we were to run the road jointly, equal in authority and responsibility. This contract was drawn up by Judge J. W. H. Underwood, in the presence of and with the assistance of General O'Neal. The following day I verbally proposed for Col. Gindrat to act as general superintendent, and left him in entire control of the road, as he had been running the trains for some time to Attala, and I pre-
420 sumed that he was competent to discharge all the business of the road. It was understood that I should visit the road at the end of each month to settle, as per contract, and I returned home. Soon after complaints reached me from Chattanooga of mismanagement and corruption on the part of some of the officials and employees; and such were the grave charges against Wheeler by all the shippers at

Chattanooga, that I discharged him and drove him from the office and depot at Chattanooga. Col. Gindrat insisted that I should let Wheeler remain on the lower end of the road, promising that he (Wheeler) should not appear as an official of the road, and that he would finally and gradually get rid of him; remarking that he was under obligations to Wheeler for assisting him to get possession of the road and its property when it was in the hands of a mob at Meridian, Mississippi. At the request of a prominent citizen of Tuscaloosa, I consented to Col. Gindrat's request reluctantly and against my better judgment. Col.
421 Gindrat promised to give his entire personal attention to the running of the road, saying, in answer to my complaints at his continued absence from the line of the road, that he was compelled to be at Montgomery to prepare his report before the meeting of the legislature. Complaints of mismanagement, incompetency, and corruption having again been made to me, and information of the stoppage of the passenger train by the N. & C. R. R. for the non-payment of toll and rental over their road, on Dec. 11th, 1871, having reached me, I saw that my personal attention to the management of the A. & C. R. R. was imperatively demanded. I therefore visited Birmingham and Montgomery, with a view of consulting Col. Gindrat and securing his co-operation in operating the road. He then promised me that he would go with me to the line of the road, and agreed that the conductors should pay over the monies collected from passengers to the local treasurer
422 at Chattanooga upon arrival at that point; and also, to have all agents north of Birmingham to report to the office at Chattanooga. He gave me an order to Randolph, treasurer, to pass such orders to the agents and conductors of the northern division as might be necessary to insure the execution of the agreement aforesaid. (No. 3, see Ex. B.) He also promised to go with me to the line of the A. & C. R. R. and assist me in running said road. I remarked at that time, "I have come now to give my undivided personal attention to the management of the affairs of the road, since everything seemed to be moving badly." Late that night, Dec. 13th, Col. Gindrat left at my room in the hotel, in Montgomery, a note (No. 4, A) saying he could not possibly accompany me next morning as he had promised, since which time I have not seen him, nor has he to my knowledge been on the line of the road or taken any part in the management since. While on that
423 occasion (13th Dec.) we had agreed upon the removal of Edgar, *wood*-master, and Egan, general ticket and freight agent, on account of incompetency and unfaithfulness in the discharge of their duties. I returned to Chattanooga and awaited the coming of Col. G., according to promise, on Sunday night. On Monday, Col. Gindrat having failed to appear, and the business and interest of the road so requiring, I removed Mr. Egan and appointed Mr. E. V. Johnson in his stead, and within a few days thereafter removed, on the same account, Mr. Edgar, road-master. I remained at Chattanooga, giving my entire personal attention to the business of the road, on the 19th of December, 1871. The 20th of that month being pay-day, and Randolph, treasurer, not appearing to pay off the hands, I telegraphed him to send money to pay the hands in machine-shops and other employees at Chatta-
424 nooga. He refused to do so, notwithstanding I had shown him Col. Gindrat's directions to that effect. Whereupon I telegraphed to Col. Gindrat at Montgomery. He replied, Randolph was right, and wrote me same day, (No. 5, Ex. D,) in which he stated Randolph was the proper person to pay off, and was right, &c.; and complained of the removal of Egan, upon whose removal we (Col. G. and myself) had

agreed at Montgomery on the 13th Dec.; he also said with reference to men quitting on account of non-payment, let them do so. The money has never been sent to pay off the hands, nor have they been paid off except partially, and in exceptional cases paid at Birmingham. I remained at Chattanooga during the Christmas holidays, waiting for and expecting Col. Gindrat, and using every effort to operate the road successfully. On the 24th December I passed an order directing conductors to turn over all money in their hands on arrival at Chattanooga; also, to agents north of Birmingham to report to
425 Chattanooga, as had been agreed upon. I had directed Mr. Wagner, acting master of transportation, and said to be a brother-in-law of Wheeler, to provide for removing freight accumulated for points south, along the line of the road. After receiving from him several unsatisfactory telegrams upon the subject, I ordered him to report to me in person at Chattanooga, for the purpose of providing for transporting the accumulated freight. He refused to obey, whereupon I removed him and appointed J. L. McCollum in his stead. On the 26th December a man by the name of Wheeler directed the conductors on trains en route to Chattanooga—passenger and freight trains—to turn at Attal'a; since which time he (Wheeler) has allowed no trains to go beyond Attal'a from below. I received two communications from Col. Gindrat, both dated Dec. 26th, 1871, (Ex. Nos. 5 and 6,) excusing himself
426 for not coming to assist me according to promise, and reiterating said promises to come, begging me to let things "rock on" as they were. I have not heard from him since that date. Nor has he, so far as I know, been on the line of the road. In all his communications he excuses himself for not coming to his post, by alleging the absorption of his time in attendance upon the court at Mobile, and by his duties as an assignee in bankruptcy. On 25th Dec. I telegraphed a letter to Col. Gindrat through Col. Jackson, at Birmingham, which letter Col. Jackson delivered to him at Montgomery. In that letter I urged him to come at once and aid me in running the road, and to send money to pay the hands, as well as to have a settlement according to contract. Col. Jackson informed me he delivered the letter, and Col. Gindrat promised to return with him to the line of the A. & C. R. R., to see me as requested, but did not do so, nor has he so done to date. On the 3rd day of January, 1872, hearing nothing farther from Col. Gindrat,
427 I telegraphed the following dispatches to Gov. Lindsay, (Ex. F, No. 7 and 8,) and on the 4th Jan. he sent me the following reply, (Ex. G, No. 9.) Having, through the orders of Wheeler stopping the regular through-trains at Attal'a, but a limited supply of rolling-stock left me, I have nevertheless continued to run trains regularly from Chattanooga to Attal'a, connecting, when possible, with the trains from below. I have appointed new conductors and other officers to run the trains, and in so doing have as far as possible selected men along the immediate line of the road. And I am happy to say that I have succeeded in operating this section of the road more successfully, under all the circumstances, than I could reasonably have expected. The rolling-stock in my possession is, except usual wear and tear, in good order. I have had no accidents or mishaps.

Having had no access to the books of the road, except at Chattanooga and the points from there to Attal'a, I am unable to state the con-
428 dition of its finances, or the disposition made of its earnings. I am satisfied that, with anything like prudent and energetic management of the Alabama and Chattanooga Railroad, a handsome profit might be realized from its operation. And even under its past management I

am confident the gross earnings of the road have been more than sufficient to meet the current expenses of its operation, and ought, in addition, to have been sufficient to keep the road in order and repair. The rolling-stock turned over to me by the sheriff of Dade County, Georgia, embracing three (3) engines and thirty-four (34) cars, and by me delivered to Col. Gindrat, has not been returned.

W. T. WOFFORD.

Subscribed and sworn to this 26th day of January, 1872.

C. O. WHITNEY,
Chairman.

(Copy.)

OFFICE OF ALA. & CHATTANOOGA R. R. CO.,
Chattanooga, Tenn., Jan. 12, 1872.

Gen. WM. T. WOFFORD,
Montgomery, Ala.:

DEAR SIR: Make some arrangement, if possible, with Gov. Lindsay and Col. Gindrat in regard to getting freight over the road, as it is accumulating here and along the line of the road more rapidly than we can send it off with our limited means of transportation, having but four box-cars this side of Attala. Six car-loads of freight in Chattanooga depot, and twenty car-loads between here and Attala, destined for points south of Attala, awaiting for transportation; besides it is accumulating at Attala considerably in consequence of the other end of the road alledging they have not got money to pay the advance and local charges on the freight to Attala.

We would have ample means to defray all necessary expenses promptly at the end of each month, and have some surplus, if we could work the road peaceably and in a business-like manner. We want business unison, energy, integrity, and capacity, and success is certain.

Hoping some amicable adjustment will soon be made for the benefit of all concerned, I am, very respectfully, your obedient servant,

E. V. JOHNSON,
Gen'l F. and T. Agent.

(Copy.)

ATTALA, ALA., *January* 23, 1872.

Gen. W. T. WOFFORD,
Montgomery, Ala.:

DEAR SIR: We had to come down here to see after some freight that we shipped from Chattanooga in December. It is here in depot yet. The southern division of the A. & C. R. R. will take the freight on. Colonel White is also here trying to get freight through, but cannot find out when a freight-train will be up from south. Your division brought nine freight-cars, loaded for points south, yesterday, and the depot is full. Can you do anything to get freight carried on? If you can you will greatly oblige your friends,

DIVINE & GOODWIN,
Per PIERCE.

(Copy.)

NEW YORK, *January* 1, 1872.

W. T. WOFFORD, Esq.,
Receiver and State Agent Ala. & Chattanooga R. R.:

DEAR SIR: Before making you a definite proposition about the rental, etc., of your portion of the road, thought best to come on here
432 to see my friends about some material aid to assist me in carrying on the operations of the road, and enabling us to pay promptly what we agree to, etc.

I find it impossible to get a dollar with the present status of things on the lower end of road. I have been here four days, and may stay here two or three weeks more, and would be pleased to hear from you soon as regards status of operations on R. R.

Yours, truly,
(Signed) SAM. B. JONES.

OFFICE KENTUCKY STOCK-YARD,
Chattanooga, Tenn., January 10, 1872.

Gen. WOFFORD,
Receiver and Superintendent, N. D. A. & C. R. R., Chattanooga, Tenn.:

DEAR SIR: Feeling considerable interest in the success of the A. & C. Road, we have exerted our influence to have stock-shippers
433 ship over the road. Some time since we shipped a car-load to S. Corbin, Montgomery, and were afterwards informed that they remained on your road two or three days without food or water. Since that time we have advised shippers to avoid your road, believing there was neither certainty or security in shipping that way. We believe there has been twenty or forty car-loads that would have gone over your road. There are at present six car-load mules in our yard at this time that would ship over your road if satisfactory arrangements could be made. We make the statement with the hope that something may be done to facilitate the interest of stock-shippers, as well as the rail-road.

Very truly,
(Signed) CRAWFORD, CARROLL & CO.

Copies of telegrams from L. J. Wagner, master transportation, to
434 *W. T. Wofford, receiver, etc.*

BIRMINGHAM, *December* 18*th*, 1871.

Gen. WOFFORD,
Superintendent and Receiver:

Col. Gindrat is at Montgomery, and says he will be here Thursday next.

(Signed) WAGNER.

BIRMINGHAM, *December* 19, 1871.

W. T. WOFFORD,
Receiver and Superintendent:

Where do you want the cars left? We might be able to distribute what few there would be with regular trains. What do you want to move with them? It is very important that the cotton on the road be

moved where we compete with rivers, and you know the supply of cars is very small compared with the demand.

(Signed) WAGNER.

435 MERIDIAN, *December* 23, 1871.

W. T. WOFFORD,
Receiver and Superintendent:

It all depends upon what is wanted. Can't leave here unless something very urgent requires it.

(Signed) WAGNER.

MERIDIAN, *December* 23, 1871.

W. T. WOFFORD:

Circumstances prevent my reporting in person immediately.

(Signed) WAGNER.

MERIDIAN, *December* 26, 1871.

ALL AGENTS, *A. & C. R. R.:*

Take no notice of Wofford's order to report my business to
436 White, but report it to me at Birmingham as usual, unless otherwise ordered by Col. Gindrat. Wofford has no such authority.

(Signed) L. J. WAGNER, *M. T.*

MERIDIAN, *December* 26, 1871.

W. T. WOFFORD,
Receiver and Superintendent:

Who informed you that I had been discharged?

(Signed) WAGNER.

Telegram from W. T. Wofford to L. J. Wagner.

CHATTANOOGA, *December* 23, 1871.

WAGNER, *M. T.:*

Report to me in person at this office immediately.

W. T. WOFFORD,
Receiver and Superintendent.

437 *Telegram from W. T. Wofford to J. H. Gindrat.*

CHATTANOOGA, *December* 19, 1871.

Col. J. H. GINDRAT,
Montgomery, Ala.:

I showed your order to Mr. Randolph instructing him to keep sufficient funds deposited here. To-day I telegraphed him to send me fifteen hundred dollars to pay hands who threatened to quit to-morrow if not paid, and he refused.

Please instruct him to send it at once.

W. T. WOFFORD,
Receiver and Superintendent.

Telegrams to W. T. Wofford from R. C. Randolph, treasurer.

BIRMINGHAM, *December* 19, 1871.

W. T. WOFFORD,
Assistant Superintendent:

438 When I confer with Jno. H. Gindrat, general superintendent and receiver, I will then answer you.

(Signed) RANDOLPH,
Treasurer.

BIRMINGHAM, *December* 19, 1871.

W. T. WOFFORD,
Assistant Superintendent:

Circumstances prevent my sending fifteen hundred dollars to Mr. Price.

(Signed) RANDOLPH,
Treasurer.

Earnings of the Alabama and Chattanooga Railroad.

Freight earnings,	August		$3,098 15
"	September		11,417 50
"	October		10,641 31
"	November		13,792 16
"	December		12,838 97
"	Estimated		4,000 00
			$55,788 00
439 Ticket sales, agents,	August		$36 40
"	September		915 80
"	October		2,468 80
"	November		2,465 60
"	December		1,785 10
"	Estimated		1,000 50
			$8,671 70
Conduc'rs' cash returns,	August		$1,370 50
"	September		3,136 44
"	October		671 65
"	November		742 87
"	December		1,523 00
"	Estimated		1,500 00
			8,944 46

Telegram from H. F. Wheeler to W. T. Wofford.

BIRMINGHAM, *December* 26, 1871.

W. T. WOFFORD,
Receiver and Superintendent:

Your action in discharging men on the road causes a great deal of dissatisfaction and threatens a strike. Your discharge of Wagner and Edgar will not be tolerated unless sanctioned by Col. Gindrat,
440 and agents must report their remittances to Capt. Randolph, as before.

(Signed) H. F. WHEELER,
Assistant Gen'l Superintendent.

Telegram from R. C. Randolph.

BIRMINGHAM, *December* 25, 1871.

ALL AGENTS, *Northern Division:*

You are hereby ordered to make your remittances to me as usual. W. T. Wofford, receiver for the State of Georgia, and superintendent

northern division, has no authority to instruct agents to report to local treasurer. Colonel Gindrat alone has that authority. Agents will be held responsible for all funds turned over to any other person but myself, unless ordered by Col. Gindrat, general superintendent.

(Signed) R. C. RANDOLPH,
Treas. A. & C. R. R.

441 *Telegram from T. H. B. Martin, agent, Collinsville.*

COLLINSVILLE, *December* 25, 1871.

H. F. PRICE:

I am ordered to make my abstract reports and cash returns to S. F. Eagan and R. C. Randolph, and feel that I must obey them.

(Signed) T. H. B. MARTIN, *Agent.*

STATE OF TENNESSEE,
Hamilton County:

Memorandum of a contract made and entered into this 13th day of November, 1871, between John H. Gindrat, agent and receiver of the governor of Alabama, and receiver appointed by the circuit court of the United States in Mississippi, and receiver appointed by the chancery court of Hamilton County, Tennessee, for that part of the Ala-
442 bama and Chattanooga Railroad lying in Tennessee, Alabama, and Mississippi, and all the other property of said company in said States of the one part, and William T. Wofford, agent and receiver of the governor of Georgia, and receiver appointed by the superior court of Dade County, Georgia, for that part of said railroad lying in the State of Georgia, and all the other property of said company lying in the State of Georgia, witnesseth:

That the said parties, in the capacity aforesaid, agree to run and operate the Alabama and Chattanooga Railroad from Meridian, in Mississippi, to Chattanooga, Tennessee, on the following terms:

1. That the entire expenses of running, operating, and maintaining said railroad by the agents, conductors, and section-force, properly chargeable for running, operating, and maintaining said railroad, shall be paid from the gross receipts from freights, passengers, and all
443 other sources of revenue, exclusive of all expenses properly chargeable to construction account.

2. The expenses of construction, and such expenses as are properly chargeable to construction account, incurred in the States of Alabama, Mississippi, and Tennessee, shall be paid by said John H. Gindrat, receiver and agent; and the expenses properly chargeable to construction account, incurred in the State of Georgia, shall be paid by the said Wm. T. Wofford, receiver and agent.

3. The net profits, after paying all expenses, exclusive of construction expenses, shall be divided equally per mile, pro rata, according to the amount of rolling-stock and the number of miles over which each receiver and agent has authority by virtue of the appointment referred to; the said John H. Gindrat, agent and receiver, having authority over miles, being in Alabama, Mississippi, and Tennessee,
444 and engines, passenger-cars, freight-cars; and the said Wm. T. Wofford, agent and receiver, having authority over miles, being in the State of Georgia, and engines, passenger-cars, freight-cars.

4. All future taxes on the whole property of said company, State.

county, corporation, and internal-revenue tax shall be paid from the gross receipts and revenues received, before any division of profits shall be made.

5. The contract made by Col. John H. Gindrat with the Nashville and Chattanooga Railroad Company, touching the use of their road, is hereby affirmed and ratified.

6. John H. Gindrat, receiver and agent, is recognized by this contract as being in the exclusive possession of that part of said railroad in the States of Alabama, Mississippi, and Tennessee, and the rolling-stock, depots, machine-shops, and all other property of said company
445 now in his control, real and personal, in said States, and the said Wm. T. Wofford, receiver and agent, is recognized as being in the exclusive possession of that part of said railroad in the State of Georgia, and the rolling-stock, depots, and all other property, real and personal, in said State, now in his control; the true intent of this article being that the rights of either party to this contract shall not be compromised or the status changed.

7. Settlements between the parties shall be made monthly; and either party may recede from and dissolve this contract upon giving to the other party ten days' notice, in writing, or such other notice as is satisfactory to both parties, and restoring the actual possession and status of the whole property as it now stands.

In testimony whereof the said parties have affixed their hands and seals the day and year aforesaid.

JOHN H. GINDRAT,
Receiver, &c.
WM. T. WOFFORD,
Receiver, &c.

446 Signed in duplicate in presence of—
E. A. O'NEAL.
V. A. GASKILL.
J. W. H. UNDERWOOD.

Letter A, No. 3.

NINE O'CLOCK P. M., *Dec.* 13, 1871.

MY DEAR GENERAL: I regret that circumstances beyond my control prevented my leaving the capital before Sunday night. Please have the enclosed letter delivered, which conveys orders that will enable you to work until my personal attention will permit all the changes you desire to be carried out to the letter. Be patient until I get there, if things do not exactly suit you.

Respectfully, your friend,
(Signed) JOHN H. GINDRAT.

447 *Letter B, No. 4.*

MONTGOMERY, *Dec.* 13, 1871.

Gen. W. T. Wofford, from and after this date, will act as superintendent of the northern division of the Alabama and Chattanooga Railroad, and establish a complete corps of officers of that division; all appointments being subject to the ratification of the general superintendent. Capt. R. C. Randolph, treasurer, will please make such order as regards the returns of conductors and agents on the northern division as will ensure a sufficient fund at Chattanooga to meet all necessary current expenses.

(Signed) JOHN H. GINDRAT,
General Superintendent.

448 No. 5.

MONTGOMERY, *Dec.* 20, 1871.

Gen. W. T. WOFFORD,
Assistant Superintendent, &c., Chattanooga, Tennessee:

DEAR SIR: I have your several dispatches of 18th and 19th, answered this morning, and promised to write in full by this mail. I have to regret that you consider it necessary to act in such haste, discharging and appointing officers of the road. In the matter concerning Mr. Edgar, it certainly would have been best to have reported him, and asked for his discharge; and the appointment of a general officer should most assuredly have come through me. I would have been most happy to have complied with any reasonable request you may have thought proper to make; but surely you will recognize the necessity for only one
449 head, and while acting in that capacity, courtesy, if nothing else, would seem to direct the proper course to pursue. Reports of agents in your division, above Attala, do not come regularly to headquarters; and in one instance none have been received. The 20th of this month (to-day) Mr. Randolph ought to have commenced at Chattanooga to pay off, but he ought to have had full reports from agents to know how to proceed. We are getting on badly, and I fear the last month's operations will result in a heavy loss. The whole line is becoming demoralized. Men do not know who to obey. Agents, fearing or believing in a coming break-up, are holding to money. I would have been with you yesterday but from the slowness with which the bankrupt business here progresses. It was and is my desire that matters should have progressed quietly for the short time that I continued to act as general superintendent. Assignees in bankruptcy have been appointed, who will in a few days enter upon their duties, and no
450 doubt will wish to arrange with you. Complications will arise, unless we can manage to make things smooth, which may give us considerable trouble. Let me, therefore, again beg that you will refrain from giving orders for the whole line, and to work as quietly as possible, with patience and forbearance.

In the matter of Randolph, he certainly cannot consistently send money to the upper end of the road, and at the same time be left in ignorance as to funds which might be on hand there. What objection there can be to reporting I cannot conceive. Agents who do not report ought to be dismissed: but I have taken no action on account of my strong desire to do nothing which would in the least tend to destroy harmony between us. It is Mr. Randolph's duty to pay off, not the superintendents of divisions. The 20th is our pay-day. He will commence as soon as reports can be had. There could be no cause
451 for dissatisfaction among the employees because of not being paid before the regular time, and if they threaten to quit they will have to do so. I hope to be with you this week.

(Signed) JOHN H. GINDRAT.

(Copy.)

STATE OF ALABAMA, EXECUTIVE DEPARTMENT,
Montgomery, Dec. 26, 1871.

Gen. W. T. WOFFORD,
Receiver and Agent State of Georgia, Chattanooga, Tenn.:

DEAR SIR: I have your favor of 25th. It has been no fault of mine that I did not meet you soon after we parted here. I could not leave

before Judge Busteed took some action and made orders in regard to the bankruptcy. This detained me until Thursday morning, and
452 then I was too sick to travel; in the mean time I was served with notice that an injunction would be asked for, and the appointment of a receiver requested, before the U. S. circuit court in Mobile, on the 27th. I expected to go to Mobile to-night, and may yet have to do so, but have just been informed that probably no court will be held until after holidays.

If this report is confirmed I will go on the road to-morrow morning; if not, then I must go to Mobile.

You see how I am and have been situated. My position in regard to the A. & C. is in every way most delicate, and I hoped you would understand it, and not be hasty in actions that would further render the case more difficult to manage. I have to regret that anything in my former letter was objectionable; intended to be very careful, and can now assure you that it was intended in no wise to be objectionable.

453 I am satisfied that unless we can act in harmony and in concert that our arrangement should be brought to a close, and I am afraid we must differ so long as sudden changes and conflicting orders are being made. I feared that our operations would result in loss, because funds did not come in to my expectations and agents had been slow in reporting.

It may not be so. The settlement will be made as soon as I get on the road.

Mr. S. B. Jones, one of the assignees, promised to see you; telegraphed me that he did so, but says nothing as to the meeting. I did hope that you would have had time to exchange views in full.

Yours, truly, &c.,

(Signed) JOHN H. GINDRAT.

454 (Copy.)

STATE OF ALABAMA, EXECUTIVE DEPARTMENT,
Montgomery, Dec. 26, 1871.

Gen. W. T. WOFFORD,
Chattanooga:

DEAR SIR: Since writing and mailing letter of this date I have received notice that the suit will be called ten o'clock Thursday, in Mobile. I must be there; no help for it. As soon as the case is heard I will go from Mobile, via Meridian, to see you. I have ordered full statements of operations to be made out by the time I arrive, and if said reports had not been made already by certain agents, to inform you of the fact, so there might be no excuse for further delay.

And now, general, let me again urge that you let things rock on as smoothly as possibly until we meet. You can have no idea of
455 the importance of my request. I may be thrown in Mobile; if so, there will be a long fight, and I want to be prepared to keep my ground.

I find it necessary to have, for a short time, more strict care taken of the Tennessee property, and place Mr. Garrett more particularly in charge; not, by any means, to interfere with the running of the road, but simply to guard and protect what I hold under my charge, and to be able to make proper returns when called upon.

This has nothing to do with our business, and I only mention it to

you that you may aid me in making Mr. Garrett's business agreeable, and at the same time not think I had sent any one on any duty without proper motives.

Yours, truly,

(Signed) JNO. H. GINDRAT.

456 *Copy of telegram sent to Gov. Lindsay, at Montgomery, Alabama, January 3rd, 1872.*

OFFICE ALA. & CHATTA. R. R. CO.,
Chattanooga, Tenn., Jan. 3, 1872.

Gov. LINDSAY,
Montgomery, Ala.:

When I saw you in Montgomery, on the 13th of December, I was there for the purpose of inducing Col. Gindrat, first, to return with me to the line of the Alabama and Chattanooga Railroad, that we might give the business of the road our personal attention and co-operate in its management; secondly, to have him place funds in the hands of the local treasurer, office in this place, to pay all current expenses, operatives, and track-hands, &c. He promised to do both, but has done neither. On the 26th day of December a man by the name of
457 Wheeler ordered the passenger and freights en route to this place to turn at Attala, since which time he has allowed no trains to come north of Attala.

The interests of Alabama and business public are suffering. Will you appoint and send a competent and faithful agent to assist me in running the road?

(Signed) W. T. WOFFORD,
Receiver and Agent for Georgia.

OFFICE ALA. & CHATTA. R. R.,
Chattanooga, Tenn., Jan. 3, 1872.

Gov. LINDSAY,
Montgomery, Ala.:

Will you order the regular trains through to this place? Freights have accumulated for all points below Attala.

(Signed) W. T. WOFFORD,
Receiver & Agent for Georgia.

458 *Copy of telegram from Gov. R. B. Lindsay, Montgomery, Ala., to Wm. T. Wofford, receiver and agent.*

MONTGOMERY, ALA., *Jan. 4, 1872.*

W. T. WOFFORD:

Regret very much the discord which seems to prevail on the A. & C. R. R. Col. Gindrat has been compelled to be in Mobile, but hope he will be relieved to-day, when I trust a satisfactory adjustment of the road matters will be speedily effected.

(Signed) R. B. LINDSAY.

The following copies of telegrams, marked from 8 to 12, were received or sent by me in connection with the non-payment of employees and the stoppage of the trains on the A. & C. R. R.; also copy of the
459 letter to Col. Gindrat, sent by Col. Jackson, to which reference was made in my testimony heretofore.

W. T. WOFFORD.

Subscribed and sworn to this 26th day of January, 1872.

C. O. WHITNEY,
Chairman.

(Copy.—Telegram.)

CHATTANOOGA, TENN., *December* 25, 1871.

Col. FRANK JACKSON,
Birmingham:

You will please deliver the following letter to Colonel Gindrat in person.

(Signed) WM. T. WOFFORD.

460 MONTGOMERY, ALA., *December* 20, 1871.

Gen. W. T. WOFFORD,
Assistant Superintendent, &c.:

Randolph is right. He is paymaster, and but for failure of agents to make reports would have commenced paying to-day. If men threaten to quit because not paid before regular time, let them do so. Will write full by this mail.

(Signed) JNO. H. GINDRAT,
Gen'l Superintendent A. & C. R. R.

(Telegram.)

BIRMINGHAM, *December* 26, 1871.

Gen'l WM. T. WOFFORD,
Receiver, &c.:

Employees have become dissatisfied on account of certain dis-
461 charges you have made, and the assistant general superintendent has concluded to turn the trains around at Attala for the present, unless you conclude to communicate with him about the running of the road. I understand most of the section-men on northern division have struck because of Edgar's discharge. Would it not be well to communicate with Wheeler? Please answer.

(Signed) A. C. BURTON.

(Telegrams.—Copies.)

BIRMINGHAM, *December* 20, 1871.

W. T. WOFFORD,
Receiver and Superintendent:

In answer to your telegram to Col. Gindrat I explain that Mr. Eagan was instructed by Col. Gindrat to have agents report to him at
462 this place for the present; consequently Eagan issued the order you refer to and signed "J. H. Gindrat." Col. Gindrat has written you from Montgomery.

(Signed) H. F. WHEELER,
Assistant Gen'l Superintendent.

BIRMINGHAM, *December* 20, 1871.

Mr. MCMILLIN, *Agent:*

In future send all reports and correspondence referring to freight and ticket business to S. F. Eagan, general F. & T. agent, Birmingham.

J. H. GINDRAT,
Gen'l Superintendent and Receiver.

CHATTANOOGA, *December* 30, 1871.

463 I was sent out from Chattanooga on 25th day of December as freight conductor on train No. 3; arrived at Birmingham at 6.55 o'clock. As soon as we arrived my engineer (Wm. Stewart) and myself were waited on by a committee of three, composed of Mr. Edgar, Tom Gryce, and Mr. McGinnis, telegraph operator. Gryce and Edgar were the spokesmen. They told us that they (the southern division) were on a strike—not for money, but to ascertain who was boss, and that no train would be allowed to go north until that was settled. They told me they would side-track my train, which they did do. Edgar is the foreman road-master of northern division. Gryce is general time-keeper for Wheeler.

(Signed) Q. CAPEHART.

464 (Copy.)

BIRMINGHAM, *December* 18, 1871.

Capt. H. F. PRICE,
Local Treasurer:

MY DEAR SIR: Yours of December 15th I found on my return from Tuscaloosa yesterday. I will be in your city Wednesday or Thursday next to pay off the shop-men and others. Should anything prevent my being with you I will forward rolls and funds to you to pay the men. Should you require money in the mean time to meet toll you must dispatch me.

Very truly,
(Signed) R. C. RANDOLPH.
Treasurer A. & C. R. R.

465 (Copy.)

OFFICE A. & C. R. R.,
Chattanooga, Tenn., Dec. 25, 1871.

Col. J. H. GINDRAT,
Montgomery, Ala.:

DEAR SIR: Yours of the 20th instant received. You express your regret at my alleged hasty action in discharging and appointing officers. I also regret to be obliged, either hastily or otherwise, to discharge officers, but will not hesitate to do so whenever my duty requires. We must have men who are competent, and who command the confidence of the business public.

If you had met me as you have repeatedly promised to do, we could probably have acted with entire harmony; but as you so often failed to meet and consult, I have been under the necessity of acting on my own judgment, and will continue to do so while the necessity exists.

466 I regret to hear that you "fear the last month's operations will result in heavy loss." But as our agreement requires monthly settlements, I am entitled at once to know the extent of the loss, if any, and to have the settlement made in accordance with the agreement. Will you not come at once and conform to our agreement?

There is a good deal in your letter that is objectionable under the circumstances as they exist; but I will reserve any further reply till we meet. But I tell you frankly and candidly that if we are to act in concert and harmony (as I would rejoice to do) our agreement must be carried out, and each of us must act as we agreed; otherwise that agree-

ment must end. Come at once and let us endeavour to ascertain whether we cannot either act in harmony or separate promptly.

Very respectfully,

WM. T. WOFFORD,
Receiver and Agent State of Georgia.

467 OFFICE ALABAMA AND CHATTANOOGA R. R.,
Chattanooga, Tenn., Jan'y 9th, 1872.

Gen. W. T. WOFFORD,
Receiver, &c.:

DEAR SIR: I have the honor to make the following report, as local treasurer of the A. & C. R. R. stationed at Chattanooga. On the 18th of December I received from R. C. Randolph, treasurer, a letter (which I herewith enclose) stating that he would, on the following Wednesday or Thursday, be in Chattanooga, to pay off all employees, and authorizing me to draw on him for money mean time, if I should need it to pay the N. and C. R. R. toll. Two days afterwards I received from him a telegram stating he would not be in Chattanooga to pay off until he got orders from general superintendent. Up to this time he had sent me $650, to be used in paying toll to the N. and C. R. R. He also
468 had sent me $389.52 to pay thirteen men, who were running as engineers, firemen, etc., on the road. Afterwards he directed me to return him the money of three of the men, which I did. This is all the money I have ever received directly from Mr. Randolph, and have, therefore, been unable to pay the laborers and others for their work. In his letter of the 18th of December he says: "Should anything prevent my being with you, I will forward rolls and funds to you to pay the men." When the time for his arrival here had passed by I telegraphed him, asking him when the money would be sent here. He replied: "I will not be in Chattanooga to pay off until I get orders from general superintendent." On the 28th of December I received from him the following telegram: "You are hereby ordered to report in person to me with your books and papers." About three days previous to this the running of the road had been stopped by superintendent at Birmingham, or some officer. I notified Mr. Randolph by tele-
469 graph: "I would report soon as the running of the road was resumed." On the 1st day of January I telegraphed him I was ready to report, and requested him to notify me when he would be ready to make monthly settlement, as per arrangement between Gen. Wofford and Col. Gindrat. That telegram he failed to reply to.

On the 3rd of January, with my assistant, W. W. Simpson, I reported to Mr. Randolph, at Birmingham, with "books and papers." Randolph then told me he was on the verge of leaving for Tuscaloosa, and did leave in a few minutes. I asked him if he was ready to make the monthly settlement. He disclaimed knowing anything about the contract between Gen. Wofford and Col. Gindrat; told me Mr. Burton, his book-keeper, would attend to and give me whatever assistance I required. He then left on the train for Tuscaloosa. I made a report to Mr. Burton of all cash received and paid out by me, and requested him to give me a statement of the amount of cash that had been re-
470 ceived in his office. He said he would make the statement up at once, and thought he would have it ready that night. At night I called for it. He then said he thought he could have it ready by the next morning. When the time arrived I again called for it. He then put me off until just before departure of the train for Chattanooga.

Again I called for it, and again failed to get it. The next morning, which was the 5th, I again called for the statement. I found Mr. Randolph in the office. He told me Gen. Wofford had violated the contract, and he would have nothing more to do with either him or myself. A few minutes afterwards he sent me an order in writing discharging me from the position of local treasurer. The discharge was dated "Headquarters A. & C. R. R., Birmingham, Ala., January 5, 1872," and was signed "R. C. Randolph, treasurer A. & C. R. R." So, without securing either money or statement of cash received by Randolph, I returned to Chattanooga.

471 Very respectfully,

H. F. PRICE,
Local Treasurer.

I was present with Col. Price, and can testify to most of the facts above stated. I was present with him on several occasions when he called on Mr. Burton for a statement of cash received.

W. W. SIMPSON.

Both Randolph and Burton told me there was no money on hand, and still owed nearly all the employees along the line of the road for their November and December work.

H. F. PRICE,
Local Treasurer.

Testimony of Col. J. H. Gindrat.

To the senate special committee on the investigation into the management of the A. & C. R. R.:

472 GENTLEMEN: In submitting, according to your request, a statement of the condition of the Alabama and Chattanooga Railroad, I beg leave to respectfully ask your attention to my report of the 16th November, 1871, (a copy of which is hereto attached,) to his excellency the governor, which contains a full and complete history of the condition of the road up to that date. If the report requires the more solemn averment of an affidavit to establish the truths of the statements therein contained, let it be considered as a part of this statement, and as sworn to by me.

The note on page eight referring to statements received after my report was in the hands of the governor, and which statements were handed to a committee of the house or senate, seems to require further explanation. The statement of Capt. Gould, engineer, and Major Wheeler, superintendent, as to expenditures for construction, is confined to transactions up to the 1st November. On the 6th of

473 November the Alabama and Chattanooga Railroad Company was declared bankrupt, and deeming it proper to open new accounts and to report expenditures to that date, I returned the statements of superintendent, engineer, and treasurer, made to the 1st, that they might be made to the 6th instead. Major Wheeler's note of the 21st shows why these statements were not received in time to accompany my report of the 16th. I now submit the treasurer's statement referred to.

In relation to the transaction by which the Alabama Central Railroad Company has been permitted to run trains over the A. & C. road from York to Meridian, and an engine left in possession of that company, you can obtain full particulars from Major Lanier, acting manager, which

will substantiate all I have said in regard to it. It has now been nearly six months since this transaction was made, and nearly six thou-
474 sand dollars of the sum obtained of the A. & C. road has been repaid by the use of the Alabama and Chattanooga road, and must be counted as so much earnings of the A. and C.

The money obtained was expended, according to contract, in obtaining peaceable and quiet possession of that part of the road lying between York and Meridian, and the machinery, workshops, &c., at Meridian, and was paid to actual creditors of the Alabama and Chattanooga Railroad Company for work and labor.

It is well known that I started trains over the A. & C. R. R. without a dollar in hand; had much work to do on the track to make trains run at all; tanks to be repaired; water and wood supplied, as well as provisions to advance before laborers could be procured, and supplies generally to purchase. I had fears that the road would not earn enough at the dull season to meet obligations which would become due 15th September, and gave instructions that the old iron on the road
475 might be sold to pay any deficit there might be. I believed, and still believe, that I had a right to use unserviceable property to be constructed into actual improvements on the road. The amount of money obtained from sales is reported in the treasurer's statement.

I do not believe that a single pound of new iron has been removed from the road. Such a charge was made in a bill filed by one Drake in the circuit court of the United States at Mobile, and there shown to be utterly false. I have caused to be constructed a large number of side-tracks; have laid down new iron thereon. Some new iron has been taken from the road and is now held under attachments, and a considerable quantity yet remains along the line. It would have been impossible to remove this iron from the road without going over either the Mobile and Ohio or Vicksburg and Meridian roads. The superintendents of these roads will be good witnesses to determine the fact.

Up to the 13th of November I continued to operate the road
476 successfully, running trains from Meridian to Attal'a, the earnings being sufficient to pay running-expenses. The increase of business reasonably looked for from carrying the in-coming cotton-crop induced me to anticipate, to some extent, the earnings of the road for requisite construction, and when finally I made arrangements with the Georgia receiver to run trains through the whole distance from Meridian to Chattanooga, I felt assured that my expectations would be realized, "and the net earnings of the road would be sufficient to rapidly replace the amounts anticipated for construction and, at the same time, pay off such expenses as had been incurred in obtaining possession of the road." But scarcely had I left Chattanooga after entering into the agreement referred to and made my report to the governor before dissentions commenced between officers appointed by me and those I had appointed at the request of the Georgia receiver. Gen. Wofford, the receiver,
477 to my surprise, assumed control and began to discharge and appoint officers without even a consultation, until finally the whole force became so demoralized as to render it almost certain that instead of deriving profits from running through, heavy losses would be incurred. Compelled to remain in Montgomery to attend an investigating committee and give attention to vexatious lawsuits where the interest of Alabama was involved, compelled to go to Mobile to attend court there when the same interests had to be looked after, I felt constrained to submit for a short time to these irregularities as the lesser of the two evils, rather than break up with the Georgia receiver by giving the requisite notice.

The dissentions caused by conflicting and contradictory orders; the vile emmis'aries employed to produce disaffections and embarrassments along the line; the great publicity given to false charges and mal-
478 administration and corruption; the investigation of committees and the suit before the United States court at Mobile, all coming together, have not failed to create embarrassments and disturbances too great for me to encounter. The business of the road has been completely destroyed, and I now believe it will be impossible to continue running trains through to Chattanooga without loss and damage.

The condition of the road has not materially changed since my report; much work has been done where, if not done, the road would have been impassable. The temporary trestling to which I have referred cannot last much longer. Built of sap timber, with the bark on, put together with spikes and braced with slender poles, the time must soon arrive when no amount of repair short of actual reconstruction will make these trestles safe, either for freight or passengers. I have, at heavy expense and with great care, kept them in safe condition, but the road no
479 longer yielding an income sufficient to do so, I am constrained to acknowledge "my expectations have not been realized," and that under all the adverse circumstances stated the road will probably have to stop before such disposition can be made of it as to render the State safe, or to insure the prompt payment of debts incurred on account of actual construction required.

It has been asked, and in some circles made the subject of criticism, how I, being receiver for the State, became custodian and afterwards assignee in bankruptcy. As it may be of interest to the committee, I will here state the facts. I was in court when the A. & C. R. R. Company was declared bankrupt. The judge asked who he should appoint as temporary custodian, when it was suggested that, as but a few days would elapse before the election of assignees, the property might remain in the hands of the receiver. The judge assented to this,
480 and I accepted the charge, after conference with the State's attorneys, and with the proviso that in so doing no compromise was made as to my position as receiver for the State. When, afterwards, the assignees were elected, I was absent from Montgomery, and knew nothing of my election until seeing the names published in a newspaper; and I accepted the position only after full consultation with the State's counsellors. Your committee might obtain some satisfactory information from the attorneys for the State, Messrs. Stone, Clopton, Troy, Pettus, and from Hon. Wm. M. Brooks, of Selma.

Very respectfully,

JOHN H. GINDRAT.

The following statement of receipts and disbursements of the A. & C. R. R. is herewith submitted as a part of the report of Col. Gindrat by the committee:

481 *Statement of receipts and disbursements of the A. and C. R. R. up to November 6, 1871.*

General expenses	$1,400 23
Construction paid on vouchers	158 92
Material in machine-shops	509 61
Material in store	178 71
Oil and waste	276 30
Wood and coal	3,569 70
Freights	51 93

Water-tanks	69 10		
Supplies	383 86		
On August pay-rolls	9,454 34		
Labor's, paid on vouchers	3,392 45		
Maintenance of way	143 45		
Material, car-shops	131 00		
Motive power	63 40		
Conducting transportation	1,289 53		
Printing and stationery, not in general expenses	186 90		
Maintenance of cars	35 75		
Telegraph, not in agencies	226 26		$72 40
Rent account	15 00		
Old iron, expense of selling	218 25		3,970 00
York agency	3,375 78		3,337 69
Springville agency			680 95
Tuskaloosa agency	3,164 37		12,031 16
Vance's agency			30 97
Cuba agency	2 00		643 13
482 Trusville agency	1 10		149 75
Eutaw agency	438 77		4,107 23
Elyton agency	238 22		3,235 50
Boligee agency			388 77
Epes agency	60 00		546 02
Livingston agency	144 95		2,243 22
Attal'a agency	10 48		2,297 96
Birmingham agency	50 00		2,663 72
Jonesboro' agency	1 75		105 20
Stewart's agency			404 28
Tannehill's agency			182 15
Green Pond agency			146 60
Toomsuba agency			128 17
Carthage agency	161 61		398 11
Farrow's agency			95 75
Kennedale agency			65 29
Haysville agency			52 94
Akron agency			189 20
Meridian ticket agency			1,552 81
Steel's			3 85
A. P. French, on September rolls	3,673 46		
Station agent's ten per cent. commission	4 05		
From acting treasurer, in August			2,190 18
Passengers			6,152 24
Express account			382 01
Meridian agency, no report	4,031 94		
483 Paid on September pay-rolls	10,037 13		
Paid on salaries	2,401 95		
	$48,507 25		$48,507 25
Amount due on August, September, and October pay-rolls			30,623 19
Amount due on salaries			2,952 33
			$33,575 52

There is on hand in wood and coal	2,500 00
In shops and offices	1,200 00
	$3,700 00
Meridian agency has on hand at least, (in vouchers)	4,000 00
	$7,700 00
Amount of actual construction, as per statement of H. F. Wheeler and J. McK. Gould	30,836 58
	$38,536 58
Deduct amount due	33,575 52
Net earnings	$4,961 06

484 Col. JOHN H. GINDRAT,
Receiver and General Superintendent A. & C. R. R

Above you will find statement of the business of the A. & C. R. R., which is respectfully submitted.

R. C. RANDOLPH,
Treasurer A. & C. R. R.

DECEMBER 12, 1871.

Report of W. A. Crawford and Wm. Johnson.

MONTGOMERY, ALA., *January* 22, 1872.

To the chairman of the senate investigating committee of the management, &c., of the A. & C. R. R.:

SIR: In accordance with written instructions from your committee, I have passed over the entire line of the Alabama and Chattanooga Railroad, for the purpose of examining the condition of the road,
485 bridging, trestling, rolling-stock, depots, and all other property belonging to the company, in company with William Johnson, who was also directed by your order to make a similar investigation. In passing over the road I also noted, in accordance with your instructions, what repairs, additional construction, permanent work, &c., had been done since the management of the road had passed from the control of the company. In making the investigation I travelled from Meridian to Birmingham, a distance of 151 miles, mostly on foot; altogether I did not ride over 25 miles on trains or hand-cars. In making estimates of the work and repairs done and this report of the condition of the road, rolling-stock, etc., I was guided by an active experience of at least fifteen years in railroading and by an actual experience of at least two and a half years in the construction of the Alabama and Chattanooga Railroad.

I arrived at Meridian, Miss., on the 8th day of January, 1872.
486 At that point I found engine No. 1, one second-class coach, one express-car, one first-class coach, and two box-cars. The engine was a total wreck and the cars broken and very badly damaged, apparently from a collision, run-off, or other accident. The depot-building was in very bad condition, neglected, dirty, and apparently fast going to ruin. Proceeding from Meridian to examine the line of road, we found Lowashee bridge burned at one end and in bad condition; one mile and a half of old railroad iron, which was along the line of road

of section No. 1 when the road passed from the control of the company, was gone; also a half a mile of the same kind of iron from section No. 2, and about one mile of the same from section No. 3. Estimating this iron to weigh about fifty pounds to the yard, about two hundred and twenty tons have been taken away from the line on these three sections.

487 I was well acquainted with the condition of the road from Meridian, Miss. to York Station, Ala., a distance of twenty-seven miles, before its seizure by the State; previous to that time the road was in good condition, and trains were being run by the company from twenty-five to thirty miles per hour in safety; since the seizure the road has depreciated very much in value.

Between York Station and Livingston, a distance of about nine miles, no work has been done of any consequence; the track and roadbed have been totally neglected; and between Livingston and Eutaw, a distance of about twenty-seven miles, the condition is about the same; Browen's cut, between these two latter points, is in exceeding bad condition; the track, in places, is out of sight in the mud; the ditches are filled with dirt and water to such a height that the steps of the coaches drag through it as they pass along. In my estimation it will cost at least $5,000 to put this cut in the same condition that it was be-

488 fore the seizure by the State authorities.

The cut at Eutaw has received some little attention; more work has been done here than at any point on the line from Meridian to Chattanooga; in my estimation this work could have been done for $800; the work consists in ditching, laying and raising track. The track between Eutaw and Red Gap is in bad condition; the iron in many places is badly bent, and no work of any consequence has been done between these points.

I found the cut north of Kennedale completely blockaded, on account of a slide; trains had to transfer passengers and baggage at this point. Red Gap, about six miles north of Elyton, has had some attention; about 2,000 yards of dirt has been taken out of cuts, and the cost of taking this dirt out, estimating it to be worth forty cents per yard, would amount to about $800.

489 From Red Gap to Attala, the track is in bad condition, the iron being bent, the track out of line, etc., in many places.

From Attala to Chattanooga, the track is in very fair condition, as compared with the rest of the road; no work of any consequence has been done on this part of the line, and no section men are now working upon it.

At Chattanooga, we found thirteen flat-cars, broken and otherwise in bad order. At Birmingham, we found one mail and two flat cars in like condition. Between Tuscaloosa and Carthage, we found six box-cars and one second-class coach wrecked and badly broken.

The bridges at the Warrior River and Tombigbee River are in bad condition; it is almost impossible to open the draw of the bridge first named; at this bridge there were about 200,000 surplus brick when the State took possession of the road, which have since been removed; we estimate the value of these brick at about $2,000.

490 At the time the State seized the road, it was fully equipped with lever-cars, hand-cars, and all kinds of tools and appurtenances to keep the track in order; now there is scarcely any tools, many of the cars are broken up or have disappeared, and there is an insufficiency of everything to keep the road in repair.

The depots and section-houses are in a dilapidated condition along nearly the entire line of road; since the State authorities have taken

possession, a temporary shed or depot has been built at Tuscaloosa, at a cost of about $175, and seven new side-tracks have been temporarily laid down; the average length of these tracks is about three hundred feet, and the aggregate cost of all is estimated to be about $375.

On the whole, I estimate that the rolling-stock of the road has depreciated at least fifty per cent. since the State authorities have been in possession, and the railroad proper, from ten to twenty per cent.

491 We talked with business men along the entire line of road, and found an expression of general dissatisfaction with the present management; they complained that their freights were not shipped in proper order or time, and are beginning to ship by other roads or conveyances; there is great irregularity in running of trains and rates of tariff; employees complain that they have not been paid for two months. I will state in conclusion that when the State authorities took possession of the road there was a large quantity of new railroad-iron, say four hundred tons, together with fish-bars and spikes for connecting and laying the same, all of which have disappeared, with the exception of from seventy-five to one hundred bars, and a few kegs of bolts, and few fish-plates, sufficient, probably, to lay the seventy-five or one hundred bars of new iron.

W. A. CRAWFORD.

492 Sworn and subscribed to this 24th day of January, 1872.

C. O. WHITNEY,
Chairman.

I fully concur in the above report of Mr. Crawford, having accompanied him and assisted him in the investigation and estimation referred to by him in said report, in accordance with instructions from the chairman of the Senate special committee on the investigation into the management of the A. & C. R. R. That portion of the report which speaks of the condition of the road previous to its seizure by the State, I know nothing of.

WM. JOHNSON.

Subscribed and sworn to January 24th, 1872.

C. O. WHITNEY,
Chairman.

493 The following are the letters alluded to by Mr. Stoneburner in his evidence elsewhere:

MERIDIAN, MISS., *September* 10, 1871.

FRIEND STONEY: Having just this moment found out that the iron is sold to parties in St. Louis, but who I can't find out, as parties take charge of it at Vicksburg, who are not the buyers; the iron is only way-billed to them to throw us off guard. I have heard from good authority that the contract is when iron arrives in St. Louis to send the money. The first ten car-loads have not yet arrived; there are some ten more car-loads lying here. Can you go to St. Louis, find out the parties, and get out your injunction, for we cannot get any money out of these parties any other way. Six car-loads went two days ago; the iron went by the packet-company, (St. Louis.) You can find out in St. Louis;

494 this is our only chance. I think we can bring them on an injunction or an attachment. Do this to hold the money and not let this management have it.

Success to you. Write me all particulars. In haste.

Yours,

S. SNYDER.

MERIDIAN, MISS., *September* 16, 1871.

FRIEND STONEBURNER: Have been expecting to hear something from you before this, but am disappointed. This is our only chance, and I fear, if you did not go to St. Louis on the receipt of my letter, that we are too late, for the largest part of the iron was then in St. Louis, and on its arrival there, the money was to be sent here for all. They have had a pay-day here. The iron is sent from Vicksburg to F. L. Cobbey, or Colbey, care of packet-company. It would be very
495 easy to find out the parties there, so you could make no mistake in getting out the injunction and attachment. My claim is $1,100; will pay a lawyer a good fee if he can collect it; don't let money keep you back, if there is any chance to get it. There is some iron still remaining in Vicksburg, but the largest part has gone forward; that ten cars that you first saw. There is about six cars in Vicksburg. Do not delay; this is our only chance.

Yours,

S. SNYDER.

ERRATUM.—In J. C. Stanton's testimony, on page xvii, twenty-second line from top, it should read, "two hundred and fifty thousand dollars," instead of "two hundred and fifty dollars."

Bill filed May 30th, 1872.

N. W. TRIMBLE, *Clerk.*

496 Circuit court of the United States, southern district of Alabama.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. STANTON, trustees, &c., *vs.* THE ALABAMA AND CHATTANOOGA RAILROAD COMPANY, LEWIS RICE, A. C. LIPPITT, AND DANIEL N. STANTON, AND OTHERS.	On bill for injunction and receiver.

The bill and affidavits in this case being presented to me, and application being made for an injunction and the appointment of a receiver in accordance with the prayer thereof, it is ordered that the said application be heard before the circuit court aforesaid, sitting in equity, at Mobile, in the southern district of Alabama aforesaid, on the 20th day of June next, at eleven o'clock in the forenoon, and that a copy of the bill and affidavits and notice of the hearing aforesaid be served on the defendants at least ten days before said hearing, and that the sale of property of said company at Chattanooga be suspended until after said hearing.

497 May 27th, 1872.

(S'gn'd) JOSEPH P. BRADLEY,

Associate Justice of the Supreme Court of the United States.

Agreement.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Alabama and Chattanooga Railway Company, complainant,

vs.

THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chattanooga Railroad Company, with others, defendants.

In equity. Southern district of Alabama, at Mobile, Alabama.

It is agreed by and between the undersigned agent and solicitors for the complainants and defendants that the above-entitled bill be entered, (notice being waived,) and that, with consent of the judge,
498 may be appointed receivers, as prayed for in said bill of complaint.

(S'gn'd) JAMES Q. SMITH,
Solicitor for Complainants.

(S'gn'd) J. C. STANTON,
Agent for Alabama & Chattanooga R. R. Co.

(S'gn'd) THOMPSON & CRAIN,
Attorneys for Second-Mortgage Bondholders.

MAY 24TH, 1872.

Presented to me May 27th, 1872.
(S'gn'd) J. P. BRADLEY,
Asso. Just. Sup. Crt. U. S.

Filed May 30th, 1872, at 9 o'clock a. m.
(S'gn'd) N. W. TRIMBLE,
Clerk.

Marshal's return on order of Judge Bradley.

Received this 10th day of June, A. D. 1872, and executed the same this 10th day of June, A. D. 1872, at 9.30 a. m., by personally leaving a copy of the within bill, exhibits, and order of Hon. Joseph P. Bradley, judge, &c., with Charles Walsh, esqr., and the same with Abram Murdock, esqr., president of the Mobile & Ohio Railroad Company.

R. W. HEALY,
U. S. Marshal,
By GEO. COTTIN,
Deputy.

499 *Bond for costs.*

Circuit court of the United States for the southern district of Alabama.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the first-mortgage bonds of the Alabama and Chattanooga Railroad Company, complainants,

vs.

THE ALABAMA AND CHATTANOOGA RAILROAD Company; Lewis Rice, A. C. Lippett, Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chattanooga Railroad Company, and Charles Walsh as receiver; The Mobile and Ohio Railroad Company, Robert B. Lindsay, John H. Gindrat; the State of Alabama; John H. Gindrat, receiver, and John H. Gindrat, Sam'l B. Jones, and John F. Bailey, as assignees; W. T. Wofford, as receiver; J. A. Caldwell, as clerk & master & receiver, defendants.

500 Know all men by these presents that we, Seth Adams, Francis B. Loomis, and John C. Stanton, as trustees for the holders of the bonds secured by the first mortgage of the Alabama and Chattanoga Railroad Company, the said Seth Adams being a citizen of the State of Massachusetts, the said Loomis being a citizen of the State of Connecticut, and the said Stanton being a citizen of Massachusetts, and C. O. Whitney a citizen of the eastern district of Tennessee, and W. J. Haroldson a citizen of the county of De Kalb, State of Alabama, are held and firmly bound unto the above named, the Alabama and Chattanooga Railroad Company; Lewis Rice, A. C. Lippett, and Daniel N. Stanton, as trustees for the holders of the second-mortgage bonds of the Alabama and Chattanooga Railroad Company; Charles Walsh, as receiver; the Mobile and Ohio Railroad Company; Robert B. Lindsay, John H. Gindrat; the State of Alabama; John H. Gindrat, as receiver; John H. Gindrat, Samuel B. Jones, and John F. Bailey, as assignees; W. T. Wofford, as receiver, and J. A. Caldwell, as clerk and master and as receiver, defendants, in the sum of five hundred dollars, lawful
501 money of the United States of America, to be paid to the above-named defendants, or any one or more of them, their executors, administrators, or assigns; for the payment of which, well and truly to be made, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals and dated the 17th day of June, A. D. 1872.

Whereas the above-named Seth Adams, Francis B. Loomis, and John C. Stanton, citizens as aforesaid, as trustees for the holders of the bonds of the Alabama and Chattanooga Railroad Company, secured by its first mortgage, filed their bill in equity in the circuit court of the United States for the southern district of Alabama against the above-named defendants:

Now, therefore, the condition of this obligation is such, that if the above named and bound complainants in said bill in equity shall dis-

Agreement.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Alabama and Chattanooga Railway Company, complainant, *vs.* THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chattanooga Railroad Company, with others, defendants.	In equity. Southern district of Alabama, at Mobile, Alabama.

It is agreed by and between the undersigned agent and solicitors for the complainants and defendants that the above-entitled bill be entered, (notice being waived,) and that, with consent of the judge,
498 may be appointed receivers, as prayed for in said bill of complaint.

(S'gn'd) JAMES Q. SMITH,
Solicitor for Complainants.

(S'gn'd) J. C. STANTON,
Agent for Alabama & Chattanooga R. R. Co.

(S'gn'd) THOMPSON & CRAIN,
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(S'gn'd) J. P. BRADLEY,
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R. W. HEALY,
U. S. Marshal,
By GEO. COTTIN,
Deputy.

499 *Bond for costs.*

Circuit court of the United States for the southern district of Alabama.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the first-mortgage bonds of the Alabama and Chattanooga Railroad Company, complainants,

vs.

THE ALABAMA AND CHATTANOOGA RAILROAD Company; Lewis Rice, A. C. Lippett, Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chattanooga Railroad Company, and Charles Walsh as receiver; The Mobile and Ohio Railroad Company, Robert B. Lindsay, John H. Gindrat; the State of Alabama; John H. Gindrat, receiver, and John H. Gindrat, Sam'l B. Jones, and John F. Bailey, as assignees; W. T. Wofford, as receiver; J. A. Caldwell, as clerk & master & receiver, defendants.

500 Know all men by these presents that we, Seth Adams, Francis B. Loomis, and John C. Stanton, as trustees for the holders of the bonds secured by the first mortgage of the Alabama and Chattanoga Railroad Company, the said Seth Adams being a citizen of the State of Massachusetts, the said Loomis being a citizen of the State of Connecticut, and the said Stanton being a citizen of Massachusetts, and C. O. Whitney a citizen of the eastern district of Tennessee, and W. J. Haroldson a citizen of the county of De Kalb, State of Alabama, are held and firmly bound unto the above named, the Alabama and Chattanooga Railroad Company; Lewis Rice, A. C. Lippett, and Daniel N. Stanton, as trustees for the holders of the second-mortgage bonds of the Alabama and Chattanooga Railroad Company; Charles Walsh, as receiver; the Mobile and Ohio Railroad Company; Robert B. Lindsay, John H. Gindrat; the State of Alabama; John H. Gindrat, as receiver; John H. Gindrat, Samuel B. Jones, and John F. Bailey, as assignees; W. T. Wofford, as receiver, and J. A. Caldwell, as clerk and master and as receiver, defendants, in the sum of five hundred dollars, lawful
501 money of the United States of America, to be paid to the above-named defendants, or any one or more of them, their executors, administrators, or assigns; for the payment of which, well and truly to be made, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals and dated the 17th day of June, A. D. 1872.

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Agreement.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Alabama and Chattanooga Railway Company, complainant, *vs.* THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chattanooga Railroad Company, with others, defendants.	In equity. Southern district of Alabama, at Mobile, Alabama.

It is agreed by and between the undersigned agent and solicitors for the complainants and defendants that the above-entitled bill be entered, (notice being waived,) and that, with consent of the judge,
498 may be appointed receivers, as prayed for in said bill of complaint.

(S'gn'd) JAMES Q. SMITH,
Solicitor for Complainants.

(S'gn'd) J. C. STANTON,
Agent for Alabama & Chattanooga R. R. Co.

(S'gn'd) THOMPSON & CRAIN,
Attorneys for Second-Mortgage Bondholders.

MAY 24TH, 1872.

Presented to me May 27th, 1872.
(S'gn'd) J. P. BRADLEY,
Asso. Just. Sup. Crt. U. S.

Filed May 30th, 1872, at 9 o'clock a. m.
(S'gn'd) N. W. TRIMBLE,
Clerk.

Marshal's return on order of Judge Bradley.

Received this 10th day of June, A. D. 1872, and executed the same this 10th day of June, A. D. 1872, at 9.30 a. m., by personally leaving a copy of the within bill, exhibits, and order of Hon. Joseph P. Bradley, judge, &c., with Charles Walsh, esqr., and the same with Abram Murdock, esqr., president of the Mobile & Ohio Railroad Company.

R. W. HEALY,
U. S. Marshal,
By GEO. COTTIN,
Deputy.

499 *Bond for costs.*

Circuit court of the United States for the southern district of Alabama.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the first-mortgage bonds of the Alabama and Chattanooga Railroad Company, complainants,

vs.

THE ALABAMA AND CHATTANOOGA RAILROAD Company; Lewis Rice, A. C. Lippett, Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chattanooga Railroad Company, and Charles Walsh as receiver; The Mobile and Ohio Railroad Company, Robert B. Lindsay, John H. Gindrat; the State of Alabama; John H. Gindrat, receiver, and John H. Gindrat, Sam'l B. Jones, and John F. Bailey, as assignees; W. T. Wofford, as receiver; J. A. Caldwell, as clerk & master & receiver, defendants.

500 Know all men by these presents that we, Seth Adams, Francis B. Loomis, and John C. Stanton, as trustees for the holders of the bonds secured by the first mortgage of the Alabama and Chattanoga Railroad Company, the said Seth Adams being a citizen of the State of Massachusetts, the said Loomis being a citizen of the State of Connecticut, and the said Stanton being a citizen of Massachusetts, and C. O. Whitney a citizen of the eastern district of Tennessee, and W. J. Haroldson a citizen of the county of De Kalb, State of Alabama, are held and firmly bound unto the above named, the Alabama and Chattanooga Railroad Company; Lewis Rice, A. C. Lippett, and Daniel N. Stanton, as trustees for the holders of the second-mortgage bonds of the Alabama and Chattanooga Railroad Company; Charles Walsh, as receiver; the Mobile and Ohio Railroad Company; Robert B. Lindsay, John H. Gindrat; the State of Alabama; John H. Gindrat, as receiver; John H. Gindrat, Samuel B. Jones, and John F. Bailey, as assignees; W. T. Wofford, as receiver, and J. A. Caldwell, as clerk and master and as receiver, defendants, in the sum of five hundred dollars, lawful
501 money of the United States of America, to be paid to the above-named defendants, or any one or more of them, their executors, administrators, or assigns; for the payment of which, well and truly to be made, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals and dated the 17th day of June, A. D. 1872.

Whereas the above-named Seth Adams, Francis B. Loomis, and John C. Stanton, citizens as aforesaid, as trustees for the holders of the bonds of the Alabama and. Chattanooga Railroad Company, secured by its first mortgage, filed their bill in equity in the circuit court of the United States for the southern district of Alabama against the above-named defendants:

Now, therefore, the condition of this obligation is such, that if the above named and bound complainants in said bill in equity shall dis-

continue his action aforesaid, or if said action shall be dismissed or non-pressed, or if judgment shall pass against them or either of
502 them, and if they shall fail to prosecute successfully their said bill of complaint in equity, and on failure so to do pay on demand all costs that may be adjudged or awarded against the said complainants, or either of them, as aforesaid, and shall abide by and perform such orders and decrees as may be rendered against them, or either of them, in said cause, then this obligation shall be void; otherwise the same shall remain in full force and virtue.

SETH ADAMS, *Trustee.*
By J. C. STANTON, *Ag't.* [SEAL.]
FRANCIS B. LOOMIS, *Trustee.*
By J. C. STANTON, *Ag't.* [SEAL.]
J. C. STANTON, *Trustee.* [SEAL.]
CHAS. O. WHITNEY, [SEAL.]
W. J. HARALSON. [SEAL.]

UNITED STATES OF AMERICA,
Eastern District of Tennessee, ss:

On this 17th day of June, A. D. 1872, personally appeared before me the above-named Chas. O. Whitney and W. J. Haralson, by me known to be the persons described in and who executed the foregoing instrument, and severally acknowledged the execution thereof.

503 (S'g'd) J. M. JOHNSON,
U. S. Commissioner, Dist. of East Tennessee.

UNITED STATES OF AMERICA,
Eastern District of Tennessee, ss:

C. O. Whitney and W. J. Haralson, being severally duly sworn, each for himself doth depose and say: the said C. O. Whitney, that he is a resident of the eastern district of Tennessee and a freeholder therein, and a freeholder in the northern district of the State of Alabama; and the said W. J. Haraldson, that he is a resident and freeholder of the county of DeKalb, in the State of Alabama; that they are worth the sum of one thousand dollars over and above all their just debts and liabilities and exemptions which they have, or now are, or has incurred, and in property not exempt from execution.

CHAS. O. WHITNEY.
W. J. HARALDSON.

Sworn to this 17th day of June, A. D. 1872, before me.
JNO. M. JOHNSON,
U. S. Commissioner, District of East Tennessee.

Filed June 19th, 1872.
N. W. TRIMBLE, *Clerk.*

504 UNITED STATES OF AMERICA.

In the circuit court of the United States for the southern district of Alabama, at Mobile, in the State of Alabama.

Demurrer of Robert B. Lindsay.

SETH ADAMS ET AL., TRUSTEES,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Co. et al. } In chancery.

The demurrer of Robert B. Lindsay, one of the defendants to the bill of complaint lately exhibited in the circuit court of the United States

for the southern district of Alabama by Seth Adams, Francis B. Loomis, and John C. Stanton, trustees, &c., complainants, against The Alabama and Chattanooga Railroad Company, this respondent, and others, defendants.

This defendant, by protestation, not confessing or acknowledging all or any of the matters and things in the said bill of complaint contained to be true in such manner and form as the same are therein and thereby set forth and alleged, doth demur in law to the said bill, and
505 sheweth to the court *the court* the following causes of demurrer to the said bill of complaint:

First. For that the said complainants have not by their said bill made such a case as entitles them, in a court of equity, to the relief prayed for, or to any relief.

Second. For that the said defendants in their said bill show that this honorable court has no jurisdiction of the matters and things in the said bill of complaint set forth and alleged, or any of them.

Third. For that it appears by the said complainants' own showing, by their said bill of complaint, that, before and at the time the said bill was filed in this honorable court, other courts had acquired and were exercising jurisdiction of the matters and things in their said bill of complaint alleged and set forth.

Fourth. For that it appears by the complainants' said bill of complaint that before and at the commencement of this suit the district court of the United States for the middle district of Alabama, as a court of bankruptcy, had acquired jurisdiction of the matters and things in the said bill of complaint set forth and alleged.

506 Fifth. For that it appears from the complainants' said bill that the property in the said first mortgage and deed of trust of the Alabama and Chattanooga Railroad Company conveyed was before and at the time the suit was commenced in the pos ession of receivers duly appointed by courts having jurisdiction over said property and to appoint said receivers.

Sixth. For that it appears from the complainants' said bill that this honorable court cannot take or exercise jurisdiction of the matters and things in the said bill of complaint set forth and alleged without a conflict with courts of concurrent jurisdiction, which courts had acquired jurisdiction of the said matters and things before this suit was commenced.

Seventh. For that the said Francis B. Loomis and John C. Stanton are joined in the said bill of complaint as complainants with the said Seth Adams. Yet it appears from the copy of said first mortgage and deed of trust of the Alabama and Chattanooga Railroad Company, which is attached to said bill of complaint as a part thereof, that said Seth
507 Adams, and Francis Dane, and John Demeritt are the trustees in the said first mortgage and deed of trust, and that the said Francis B. Loomis and John C. Stanton are not mentioned as trustees in said first mortgage and deed of trust, under which the complainants alone claim; nor do the said complainants in their said bill state how or by what authority the said Francis B. Loomis and John C. Stanton became trustees under said first mortgage and deed of trust.

Eighth. For that it appears from the said complainants' said bill that the said first mortgage and deed of trust of the Alabama and Chattanooga Railroad Company was made to Seth Adams, Francis Dane, and John Demeritt, as trustees, and that the only right or title by which the complainants commenced this suit is as trustees under said mortgage

and deed of trust, which Exhibit A to said bill is a copy. Yet the said Francis Dane and John Demeritt are not made parties complainant in the said bill of complaint, nor do the complainants in their said bill state any reason or excuse why the said Francis Dane and John
508 Demeritt are not made parties complainant in the said bill of complaint.

Ninth. For that the said complainants in their said bill, in the introductory part thereof, have not stated the names, places of abode, and citizenship of the parties by and against whom the bill is brought, according to the rules of this honorable court.

Tenth. For that the prayer for process of subpœna in the said bill does not contain the names of the defendants against whom the said bill of complaint is brought.

Eleventh. For that there is a non-joinder of necessary parties complainant, in the said bill, in this: that Francis Dane and John Demeritt, who have, as appears by the said bill, equal right and interest with said Seth Adams, are not made parties complainant, and no excuse is shown why they are not.

Twelfth. There is a misjoinder of parties complainant in said bill in this: that Francis B. Loomis and John C. Stanton are made parties complainant with said Seth Adams, when it does not appear that they have any right or interest in the premises.

509 Wherefore and for divers other good causes of demurrer appearing in said bill, this defendant doth demur thereto, and he prays the judgment of this honorable court whether he shall be compelled to make any further or other answer to the said bill, and he humbly prays to be hence dismissed with his reasonable costs in this behalf sustained.

PETTUS & DAWSON,
STONE & CLOPTON, &
WATTS & TROY,
Solicitors & Counsel for R. B. Lindsay, Deft.

UNITED STATES OF AMERICA.

In the circuit court of the United States for the southern district of Alabama.

SETH ADAMS ET ALS.
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et al. } In chancery.

We, Edmund W. Pettus & N. H. R. Dawson, solicitors in said court, and partners under the name and style of Pettus & Dawson, do
510 hereby certify that we are counsel for Robert B. Lindsay, one of the defendants in said suit, and that we have examined the foregoing demurrer of said defendant, Robert B. Lindsay, to the bill of complaint in said cause, and that, in our opinion, the said demurrer is well founded in point of law.

PETTUS & DAWSON,
Counsel for said R. B. Lindsay, Deft.

THE STATE OF ALABAMA,
Montgomery County:

Personally came before me Robert B. Lindsay, who, being duly sworn, deposes and says that the foregoing demurrer is not interposed for delay.

ROBT. B. LINDSAY.

Sworn to and subscribed before me this the 19th day of June, 1872.
THOS. M. PETERS,
Judge of Sup. Court of Ala.

Filed June 20th, 1872.
N. W. TRIMBLE,
Clerk U. S. Cir. Ct. So. Dist. of Ala.

511 *Demurrer of J. H. Gindrat, J. F. Bailey, & S. B. Jones.*

In the circuit court of the United States for the 5th judicial circuit and southern district, at Mobile.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees of the holders of the bonds secured by the first mortgage of the Alabama and Chattanooga Railway Company, complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company; Lewis Rice, A. C. Lippett, and Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chattanooga Railway Company, with others, defendants.

The demurrer of John F. Bailey, John H. Gindrat, and Samuel B. Jones, three of the defendants, to the said bill of complaint.

These defendants, by protestation, not confessing or acknowledging all or any of the matters and things in the said complainants' bill contained to be true in such manner and form as the same are therein and thereby set forth and alleged, do demur to the said bill, and for
512 cause of demurrer show:

1. That the said complainants have not by their said bill made such a case as entitles them in a court of equity to any discovery from these defendants or any of them, or to any relief against them or any of them, as to the matters contained in said bill, or any of said matters, and that any discovery which can be made by these defendants or any of them as to the matters contained in the said bill, or any of such matters, cannot be of any avail to the said complainants for any of the purposes for which a discovery is sought against these defendants by the said bill, nor entitle the said complainants to any relief in this court touching any of the matters complained of.

2. That it appears by the said bill that the same is exhibited against these defendants as assignees of the Alabama and Chattanooga Railroad Company, a bankrupt, and against Robert B. Lindsay, W. T. Wofford, Charles Walsh, The Mobile and Ohio Railroad Company, and J. A. Caldwell for several and distinct matters and causes, in many whereof,
513 as appears by said bill, these defendants are not in any manner interested or concerned, by reason of which distinct matters the said bill is drawn out to a considerable length, and these defendants are compelled to take a copy of the whole thereof, and by joining distinct matters together which do not depend on each other in the said bill, the pleadings, orders, and proceedings will, in the progress of the said suit, be intricate and prolix, and these defendants put to unnecessary charges in taking copies of the same, although several thereof in no way relate to or concern them.

3. The discovery and relief sought in said bill relate to several and distinct matters as against these defendants and as against other parties to the said bill in no way connected with these defendants in the matters in which discovery and relief is sought against these defendants.

4. There is no averment in the said bill that the default of the payment of the interest on any of said bonds mentioned in the bill occurred without the consent of the holder or holders of the bonds or coupons, and that such default continued for three months without the consent of such holder or holders, and that the complainants or either of
514 them, or any trustee under said deed, was required by the holders of one-half of all the issue of the bonds mentioned in the bill as secured by the trust-deed exhibited to said bill, then unpaid and outstanding, to make demand from the Alabama and Chattanooga Railroad Company for possession of the road of said corporation, and other property mentioned in said deed, or that complainants, or either of them, or any person as trustee under said deed has made such demand for the possession of said road and other property of said company.

5. There is no averment in said bill that the default of payment of interest on the bonds secured by the trust-deed exhibited to the bill continued for three months without the consent of the holder or holders of the coupons attached to said bonds, and that complainants, or either of them, have demanded of said corporation full payment of all money in default.

6. There is no averment in said bill that default of payment of any interest on said first-mortgage bonds having been made, and the warrant or coupon for such interest having been presented and its
515 payment demanded, and that such default continued for three months after said demand without the consent of the holder of such coupon or bond, or that the complainants or trustees of said deed, or either of them, has declared the principal of said bonds due and payable and notified the said corporation of such declaration, and that the complainants or trustees under said deed, or either of them, have been requested in writing by any of the holders of said bonds to proceed to collect either principal or interest on any of the said bonds outstanding by foreclosure and sale of said property mentioned in said trust-deed or otherwise, as provided therein.

7. There is no averment in said bill that the complainants, or either of them, or that the trustees named in said deed exhibited to the bill, or either of them, or that any successors or successor of either of the trustees named in said deed, appointed as provided in said deed, has demanded of the said corporation, or of any of the defendants to the bill, the possession of the said railway and property mentioned in said deed, or that the holders of one-half of all the bonds issued as
516 stated in said bill unpaid and outstanding have required complainants, or either of them, or any trustee under said deed, to make such demand and take possession of said road and property.

8. There is no averment in said bill that complainants, or either of them, or any trustee under said deed, has demanded of the said corporation full payment of all the money in default.

9. There is no averment in said bill that the complainants or others, as trustees under said deed, or either of them, have declared the principal of all the bonds secured by said deed due and payable, and notified the said corporation thereof, or that the trustees under said deed, or either of them, or any person as trustee under said deed, has been requested in writing by the holders of a majority of said bonds out-

standing at the time of such request to proceed to collect the principal and interest of all such outstanding bonds, or either of them, by the foreclosure and sale of the property embraced in said deed, or otherwise as provided in said deed.

10. There is no averment in said bill that complainants, or either
517 of them, or any trustee named in said deed, or any successor of any such trustee appointed as provided in said deed has been requested in writing by the holders of a majority of said bonds secured by said deed then outstanding at the time of such request to proceed to collect the principal and interest on such outstanding bonds, or either of them, by foreclosure and sale of the property embraced in said deed, or otherwise as provided in said deed.

11. There is no averment in said bill that complainants, or either of them, or any trustee named in said deed, or any successor of any such trustee appointed as provided in said deed, has been requested in writing by the holders of a majority of the bonds secured by said deed then outstanding to proceed to collect the principal and interest of all such bonds outstanding, or either of them.

12. It plainly appears in and by said bill that the trustees named in said deed of trust, and to whom the property embraced in said deed was conveyed, are Seth Adams, Francis Dane, and John Demeritt, and it *it* is not shown nor aver'ed in said bill that Francis Dane and John Demeritt have, or that either of them has, died, resigned, or be-
518 come unable to act as trustee under said deed.

13. It plainly appears from said bill that Francis Dane and John Demeritt were two of the trustees named in said deed of trust, to whom the property embraced therein were conveyed conjointly with Seth Adams, and it is not set forth nor shown in said bill that because of the death, resignation, or inability to act as trustees of the said Francis Dane and John Demeritt, or either of them, the said Francis B. Loomis and John C. Stanton, or either of them, was appointed successor of either the said Francis Dane or John Demeritt by the board of directors of said corporation, or that the said board of directors of said corporation, or the said board of directors having failed to make any such appointment, a court of competent jurisdiction in either of said States in which the said road existed appointed the said Francis B. Loomis and John C. Stanton trustees, as successors to the said Francis Dane and John Demerett, or appointed either the said Francis B. Loomis or John C. Stanton trustee, as
519 successor to either the said Francis Dane or John Demeritt, on the application of the holders of the one-sixth part of the bonds intended to be secured by said trust-deed then outstanding.

14. The said complainants, Francis B. Loomis and John C. Stanton, are not shewn by said bill to have any right to exhibit the same, or to have any relief from any of the facts set forth in said bill.

15. The complainants have not in their said bill shewn or alleged the citizenship of these defendants to entitle the court to take jurisdiction of this case as against these defendants.

16. The complainants have not in their bill shown nor alleged the citizenship of The Alabama and Chattanooga Railroad Company, so as to authorize or entitle this court to take or exercise jurisdiction in this cause.

17. The complainants have not in their said bill averred or alleged the citizenship of any of the parties who are sought to be charged, or against whom relief is sought in said bill.

18. In the prayer for process of subpœna contained in said bill,

the complainants have not set forth the name of any defendant
520 to said bill, nor the name of any person who is sought to be charged, or against whom any relief is prayed in said bill of complaint.

J. A. ELMORE,
WM. M. BROOKS,
E. A. O'NEAL,
L. P. WALKER,
Sols. for Defts.

Because it is shown in said bill that proceedings in bankruptcy have been instituted in the district court of the United States for the middle district of Alabama, before the honorable Richard Busteed, judge of said district, against the Alabama and Chattanooga Railroad Company, and under said proceedings in bankruptcy these defendants were appointed assignees in bankruptcy of said corporation, and there is no allegation or averment of any fact, matter, or thing in said bill which deprives said district court of jurisdiction in the premises, or which renders these defendants, as such assignees, amenable in the premises to the jurisdiction of this circuit court; that it appears in and by said bill
521 that the said property of said corporation embraced in said trust-deed were sold under the proceedings in bankruptcy aforesaid.

In circuit court of the United States for the 5th judicial circuit and southern district of Alabama, at Mobile.

SETH ADAMS ET ALS.
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

We, John A. Elmore, Edward O'Neal, and William M. Brooks, hereby certify that we are of counsel for John F. Bailey, John H. Gindrat, and Samuel B. Jones, three of the defendants, as named in said bill, and that we have examined the foregoing demurrer of said three defendants to said bill of complaint, and in our opinion the said demurrer is well founded in law.

J. A. ELMORE.
E. A. O'NEAL.
W. M. BROOKS.
L. P. WALKER.

Before me, Henry S. Skaats, United States commissioner for the southern district of Alabama, personally appeared John H. Gin-
522 drat, one of the said defendants, who, being sworn, on oath deposes and says that the foregoing demurrer is not interposed for delay.

JOHN H. GINDRAT.

Sworn to and subscribed before me this the 20th day of June, A. D. 1872.

HENRY S. SKAATS,
United States Commissioner, Southern District of Alabama.

Filed June 20th, 1872.

N. W. TRIMBLE, *Clerk.*

523 Circuit court of the United States for the southern district of Alabama. In equity.

SETH B. ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Alabama & Chattanooga Railway Company, complainants,	In equity. Southern district of Alabama, at Mobile.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippett, and Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Ala. & Chattanooga Railway Company.	

I, Robert B. Lindsay, make oath and say that I, as governor of the State of Alabama, have heretofore paid five hundred and thirty-six thousand dollars in satisfaction of the interest due upon the first-
524 mortgage bonds of the Alabama & Chattanooga Railroad Company which were endorsed by the State of Alabama, being the interest due on four millions of dollars on the first day of January, 1871, on four million seven hundred and twenty thousand dollars due the first day of July, 1871, and on the like amount due 1st of January, 1872. I paid this interest because the said Alabama and Chattanooga Railroad Company failed to pay or make provision for the payment of the same. These are all of the bonds issued by the said company which I considered lawfully endorsed by the State of Alabama. I also paid in the aggregate the sum of two hundred and forty thousand dollars in gold, being the amount of interest due on two millions of bonds of the State of Alabama loaned to said company, which interest said company was bound to provide for, but failed to do so. I also paid other large
525 sums for interest, exchange, and expenses on account of said company. On the 22nd day of April, 1872, I bought for the State of Alabama the Alabama and Chattanooga Railroad and other property appertaining thereto, at a sale made by the assignees in bankruptcy, pursuant to a decree made by the district court of the United States for the middle district of Alabama, sitting at Montgomery, in bankruptcy.

On the 15th day June, 1872, said sale was confirmed by said district court and possession of said road and property ordered to be delivered to the State of Alabama by said assignees, & said assignees did, pursuant to said order, deliver said road to the State of Alabama, through me, as governor, and I now hold the same as the property of the State of Alabama. In the *in the* purchase of said road I acted under and pursuant to the provisions of a statute enacted by the legislature
526 of the State of Alabama for such purpose. The State of Alabama is the sole owner of the said road & property so purchased.

ROBT. B. LINDSAY.

Sworn to & subscribed before me, at Montgomery, this 19th June, 1872.

GEO. H. PATRICK,
U. S. Commissioner, Mid. Dist. Alabama.

Filed June 20th, 1872.

N. W. TBIMBLE, *Clerk.*

Circuit court of the United States.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Alabama & Chattanooga Railway Company, complainant,
vs.
THE ALA. & CHATTANOOGA RAILROAD COMpany, Lewis Rice, A. C. Lippett, & Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Ala. & Chattanooga Railway Company, defendant.

In equity. Southern district of Alabama, at Mobile.

527 I, John H. Price, being first duly sworn, depose and say that I am a citizen of Meridian, in the State of Miss'ippi; that in July and August last I was station-agent at York for the Ala. Central Railroad; that during the last week in July, while the Alabama & Chattanooga Railroad was lying idle, and before it was occupied by the State authorities, John I. Currance, an employer of Stanton's, having seized a lot of railroad-bars belonging to said railroad, loaded the same on two cars belonging to the Ala. Central Railroad, & shipped them to Noble Bros. & Co., Rome, Ga., on the second day of August last.

J. H. PRICE.

Sworn to & subscribed before me by the said J. H. Price, who is known to me, on this 19th day of June, 1872.

W. P. EVANS, [SEAL.]
U. S. Commissioner for the Southern Dist. of the State of Missi'ppi.

Filed June 20th, 1872.

N. W. TRIMBLE, *Clerk.*

528 SETH ADAMS, FRANCIS LOOMIS, & JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Alabama & Chattanooga Railway Company, complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippett, and Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chattanooga Railway Company, with others, defendants.

I, Edione M. Hunston, a citizen of Meridian, in the State of Missi'ppi, being first duly sworn, depose and say that I am 28 years of age, have been engaged as machinist and engineer in the employment of railroad companies for a period of eight years last past, & have been acquainted with the condition of the Alabama & Chattanooga Railroad for the last two years and four months. I have been engaged and occupied as
529 foreman of the machine and repair shops of said Alabama and Chattanooga Railroad for a period of two years and four months last past, and am now employed & have been employed as master-ma-

chinist in said shops and for the southern division of said road for the past six or seven weeks. I am fully and thoroughly acquainted with the condition of all the rolling-stock that has been used on the southern division for the last two years. I have read the affidavit in this cause filed, purporting to be the affidavit of W. C. Robinson, sworn to before D. I. Duffy, a U. S. circuit court commissioner, and I aver that passenger-coach No. 11 was not damaged to the amount of $2,000, as set forth in said affidavit, and that the damage did not exceed five hundred dollars, & of that amount three hundred dollars has been already expended under Col. Gindrat's administration; and I state furthermore that second-class passenger-coach No. 3 was not damaged to the extent of fully fifteen hundred dollars, as set forth in said affidavit, but that
530 three hundred dollars will cover the cost of repairing said coach. And I state furthermore that there are not thirty-five freight cars piled up promiscuously in the yard at Meridian, as declared in said affidavit, but that there are five freight & one baggage car deposited in said yard for repairs, and that the damage to said cars is not from $8,000 to $10,000, as stated in said affidavit, but that they can be placed in their original condition at an average cost of $100 each. And I furthermore state that coaches No. 11 & No. 3 were not in good condition when coming into possession of Col. Gindrat. And I furthermore state that engine No. 1 was not run off by fast running & carelessness, nor damaged $4,500 in value, as stated in said affidavit, but that the accident was caused by a bull lying on the track, & the damage to said engine did not exceed $1,500 in value, and a portion of the repairs have already been effected.

Engine No. 2 was not damaged to the extent of $4,000, as set forth in said affidavit, but it can be repaired at an outlay of five hundred
531 dollars.

Engine No. 3 was not damaged to the amount of $1,000, but can be thoroughly renervated at a cost of $300.

Engine Nos. 5, 13, & 14 have not been damaged to the amount of $1,000 as stated in said affadavit, nor have they been damaged at all, but are in better condition than when they came into possession of Col. Gindrat. The stationery engine in the machine-shop has not been damaged to the amount of $100 by neglect of repair, as set forth in said affadavit, but has a blister in the boiler caused by original defect in manufacturing, which defect can be remedied at a cost of $30.00. The turn-table, shop, depot, and machinery at Meridian are not damaged fully $3,500 as declared in said affadavit, but are in as good condition in all respects as when Col. Gindrat came into possession of them. I am well acquainted with the employees in the running department and know that with few exceptions Col. Gindrat employed the same men that were em-
532 ployed under Stanton, and that they were "sober, energetic, and efficient men," as stated by Sid. B. Smith in his affadavit in this cause filed, and not "irresponsible, drunken, & reckless" as subsequently stated by him in said affadavit. Shortly before Stanton stopped running the road, he caused a large amount of tools & material to be removed from Meridian, and it was currently reported and believed at the time that these tools and material were to be sold to raise money to pay the employees. Among these tools were 250 wheelbarrows.

E. M. HUNSTONE.

Sworn to and subscribed before me by E. M. Hunstone, by me known, this 19th day of June, 1872.

W. P. EVANS, [SEAL.]
U. S. Commissioner for the Southern District of the State of Missi'ppi.

Filed June 20th, 1872.

N. W. TRIMBLE, *Clerk.*

533 *Affidavit of E. Farrand, for respondent.*

The circuit court of the United States for the southern district of Alabama. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Alabama and Chattanooga Railway Company, complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chattanooga Railway Company, with others, defendants.

I, E. Farrand, now residing at Attala, in the county of Etowah,
534 State of Alabama, being duly sworn, deposeth as follows: That as one of a commission appointed and authorized to examine and report upon the condition of the Alabama and Chattanooga Railroad Company, to the governor of the State of Alabama, he did, in conjunction with his co-commissioner, R. T. Thom, perform that duty, and on the 9th day of November, 1871, they made their report to his excellency R. B. Lindsay, governor of the State of Alabama, a copy of which is herewith filed as part of this affidavit, marked "Exhibit A." Affiant deposes that the statements contained in said report are true, and he here now makes them part of this affidavit.

E. FARRAND.

Sworn to and subscribed before me, at Montgomery, this 18th day of June, A. D. 1872.

[U. S. COM'R'S SEAL.] GEO. H. PATRICK,
U. S. Commissioner, Mid. Dist. of Ala.

535 EXHIBIT A.

Report of Messrs. Farrand & Thom, railroad commissioners, authorized to examine and report upon the condition of the Alabama and Chattanooga R. R. Co. to the governor.

To his excellency R. B. LINDSAY,
Governor of the State of Alabama:

SIR: The undersigned, State commissioners, appointed by your excellency to examine and report upon the condition of such railroads as are applying for and receiving State aid, in compliance with the 14th article of an act of the legislature approved February the 21st, 1870:
536 "To furnish the aid and credit of the State for the purpose of ex-

pediting the construction of railroads within the State," beg leave to submit the following statement, as the result of our careful examination of that portion of the Alabama and Chattanooga Railroad, between Meridian and the northern State-line of Alabama, at the point where it passes out of Alabama into the State of Georgia.

By request of Colonel J. H. Gindrat, appointed by your excellency as receiver on the part of the State, we have made as careful and minute an examination of the road, in all its parts, as could have been done short of an instrumental survey, and find its condition, commencing at Meridian, Mississippi, as follows, to wit:

From Meridian to York Station, twenty-seven (27) miles, the road-bed is old, well-built, and substantial. The rails on three (3)
537 miles of this portion of the road is of good quality, weighing fifty-six (56) pounds to the yard; on twenty-four (24) the rails are light, weighing less than fifty (50) pounds to the yard, badly kinked from burning, and worn out. The cross-ties are rotten and many of them mashed up. The culverts are of wood, rotten and falling in. The bridges and the trestles are old, but are made safe by repairs.

We estimate the rebuilding of this twenty-seven (27) miles of road will cost one hundred and forty-one thousand dollars over and above the value of the old rails now on the track.

From York Station to Ackron Station, forty-five (45) miles, the superstructure is laid upon a good and substantial road-bed. The excavations and embankments are brought to proper shape and grade
538 adapted for the permanent working of the road.

The rails are of good quality, weighing fifty-six (56) pounds to the yard, connected by joint-fastenings of the most approved pattern, known as the fish-bar pattern. The cross are generally of sapling pine, one-fourth of which are rotten and require replacing. The bridges and trestles are good and substantially built.

To replace trestles on this portion of the road from York to Akron Station will cost eleven thousand two hundred and fifty dollars ($11,250.00.)

From Akron Station to Tuscaloosa, twenty-five (25) miles, the road-bed is through a pra'rie district, and is as good and well built as any new road of the same material; but, like all pra'rie roads, will require frequent filling and draining for two or three years. The super-
539 structure is good and well laid. The cross-ties are generally of oak, with an average of seven (7) inches face, and place' not more than thirty (30) inches from centre to centre. The rails are of good quality, weighing fifty-six (56) pounds to the yard, connected by joint-fastenings of the fish-bar pattern. On this twenty-five (25) miles of road, between Akron Station and Tuscaloosa, are numerous temporary bridges and trestles, measuring in all fifteen thousand seven hundred and seventy-five (15,775) feet, engineer's measurement, constructed of pine poles with the bark on, and rapidly going to decay; and none of these bridges or trestles can last more than six or eight months, and most of them would be dangerous to pass over at this time but for the careful watching of the able and energetic H. F. Wheeler, the
540 general superintendent and chief engineer of the road, who keeps of his most trusty workmen constantly watching and removing the rotten poles and replacing them with sound ones, and bracing the weak places.

We estimate that it will cost to build the bridges and trestles on these twenty-five (25) miles of road between Akron Station and Tuscaloosa one hundred and seven thousand (107,000) dollars. From Tuskaloosa to the one hundred and eighty mile post, south of Chattanooga sixteen

(16) miles, this superstructure is laid upon a good and substantial road-bed.

The excavations and embankments have been brought to their proper shape and grade, adapted for the permanent working of the road. The rails are of good quality, weighing fifty-six (56) pounds to the
541 yard, connected by joint-fastenings of the fish-bar pattern, and land upon cross-ties of the best quality, and is, in all respects, a first-class road.

Between the one hundred and seventieth and the one hundred and eighty-fifth mile posts, (south of Chattanooga,) there are nine miles of temporary road; that is, the track is diverted from the original and established survey at different points along these fifteen (15) miles of road to avoid deep excavations and heavy embankments, by winding around the points of elevation which occur on the regular and adopted line. Upon these nine (9) miles of temporary road, the rails, cross-ties, and road-bed are good, but the curves are too sharp, and the grades too heavy, for the safe and practical working of the road. At the different places on the permanent survey excavations and embankments have
542 been commenced, and a large amount of labor expended, which will be available in completing the road.

We estimate that it will cost to finish the grading, remove and put down the cross-ties and rails, on this portion of the road, one hundred and eighty thousand (180,000) dollars.

With the exception of those temporary trestles, near Red Gap, (which are to be and are now being filled in with earth,) there is a continuous line of good road from the one hundred and seventieth mile post to the State line, (one hundred and thirty-eight miles;) the superstructure is laid upon a good and substantial road-bed. The excavations and embankments have been brought to the proper slope and grade, as
543 adapted for the permanent working of the road. The cross-ties are of hewed oak, of superior quality, and placed within thirty (30) inches from centre to centre. The rails are of good quality, weighing fifty-six (56) pounds to the yard. The bridges and trestles are substantially built, and on the most approved plan. The culverts are of substantial stone masonry. We estimate the cost of filling in the trestles, near Red Gap, at fifty-five thousand (55,000) dollars.

The road is in operation, and cars are running daily between Meridian and Attalla; but there is not, at this time, in the hands of the receiver an outfit and equipment sufficient to perform, promptly, the business of the road now in operation. A larger portion of the engines, and rolling-stock generally, have been removed from this portion of the road and are unavailable, in Georgia and Tennessee.

544 We notice a large amount of new work which has been done at various points upon road-bed and trestles, outside the ordinary labor of keeping a finished and well-built road in good running condition; and for better information on this subject, we referred to the superintendent's books of expenditures, and find from the 11th August to the 30th of September the following charges, viz:

From the 11th to 30th of, inclusive, for labor finishing road-bed	$4,608 94
For labor on trestles	1,150 34
From the 1st to the 30th September, for labor finishing road-bed	6,667 04
For labor on trestles	1,107 42
	$13,533 74

Which exhibit shows that, from the earnings of the portion of the road now in operation since your excellency placed it in the hands of Colonel J. H. Gindrat, he has appropriated and applied
545 thirteen thousand five hundred and thirty-three dollars and seventy-four cents to the permanent completion of the road, which shows extraordinary management, when we take into view the limited portion of the road to which he has been compelled to confine his operations.

Please allow us to remind your excellency that, when you appointed Colonel J. H. Gindrat receiver, and placed the road in his hands, it was, as it is now, in an unfinished condition; and, in addition, it was completely disorganized and paralyzed by legal controversy, and a spirit of discontent and antagonism prevailed against the road; but by a judicious organization of efficient officers *officers*, he has brought order out of chaos, and inspired confidence and good feeling along the whole road.

546 RECAPITULATION.

To complete road from Meridian to York Station.....	$141,200 00
To replace one-fourth (¼) of the ties from York to Akron, forty (40) miles.....	11,250 00
To replace temporary trestles between Akron Station and Tuscaloosa, fifteen thousand seven hundred and seventy-five (15,775) feet	107,000 00
To fill trestles near Red Gap, now temporary, and to be filled.....	55,000 00
To complete nine (9) miles of road between the seventieth and eighty-fifth (70 and 85) mile post, moving and laying the rails and ties from temporary to permanent road-bed	180,000 00
Work done upon the road in permanent construction since the State took possession by Colonel H. F. Wheeler, general superintendent	13,533 74
	$507,983 74

547 Which exhibit shows that we estimate the cost to complete the road at the time it was placed in the hands of Colonel J. H. Gindrat, five hundred and seven thousand nine hundred and eighty-three ($507,983.74) dollars.

All of which is respectfully submitted by your obedient servants,

E. FARRAND.
R. T. THOM.

Sworn to and subscribed before me the 9th of November, 1871.

J. P. NETTLES,
N. P. and ex-officio J. P.

Filed June 20th, A. D. 1872.

N. W. TRIMBLE, *Clerk.*

548 *Order of court extending time for taking affidavits.*

Circuit court of the United States for the fifth judicial circuit and southern district of Alabama. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. STANTON, trustees, &c., *vs.* THE ALABAMA AND CHATTANOOGA RAILROAD Company and others. } In chambers, at Mobile, Alabama, June 20th, 1872.

This cause being this day set for hearing, by honorable Joseph P.

Bradley, one of the justices of the Supreme Court of the United States, for the appointment of a receiver and the issuing an injunction, and the same not being ready for trial, it is ordered by the court that the application for an injunction and receiver be continued until the 10th
549 day of July next, at which time is agreed by the parties that the said application be, and it is hereby, submitted to the honorable W. B. Woods for decision, unless in the mean time they shall agree to submit the same to said Justice Bradley to be heard outside of his circuit.

It is further ordered that the parties have until the 6th of July next to file additional affidavits. It is further ordered that the parties have leave until the 10th July next to file objections to the evidence and affidavits which may be offered in evidence, and that on that day the clerk of the court shall take and make a note, in writing, of the affidavits and other evidence offered by either party, and the objections, if any, made thereto, and shall certify and transmit said note and objections, together with all the papers and pleadings in the cause, to the honorable W. B. Woods.

(S'g'd) W. B. WOODS,
Judge.

Filed June 20, 1872.

N. W. TRIMBLE,
Clerk.

550 *Package 2.*

Affidavits for complainants.

H. M. SMITH.

Personally appeared before me, Daniel J. Duffy, United States commissioner for the eastern district of Tennessee, H. M. Smith, who, being duly sworn, says he is forty years of age; has been employed in various capacities by railroad companies for twenty years; has been the superintendent of machinery and motive-power connected with the Alabama and Chattanooga Railroad for the past three years; his position has enabled him to become, as he did become, entirely familiar with the condition and business of the said railroad; he further says that the road-bed, road, and rolling-stock of said railroad were generally new, in fine condition, and well preserved at the time the said railroad was taken possession of by receivers; that the business was good and increasing, and managed with ability and efficiency; that after the road was taken possession of by receivers, appointed by the governor of Alabama, the State courts of Alabama and the United States district court for the middle district of Alabama, sitting as a court of bankruptcy, the property of said road has been seriously damaged
551 and the business largely decreased; that to arrive at the value so damaged he says he will specify the general items as follows, to wit:

First. At Meridian, Mississippi, there has accumulated eight engines, from fifty to sixty cars of different kinds, and other property, that has been damaged, destroyed, or otherwise become unserviceable, by neglect, incompetent management, and want of ability on the part of the said receivers, their agents, or employees; said engines have become damaged by hard and unskilled usage; sometimes by collisions, at other times by being run off the track, and by remaining uncared-for after having been used; the cars became damaged for the same general reasons, and by not being put in repair when it was necessary and before they became finally unserviceable; he considers the damage in this particular to be about sixty thousand dollars.

Second. The road-bed, track, bridges, trestles, track and depot, tools and fixtures, by careless and unskilled use, neglect, and want of proper care and management, have depreciated in value from three to
552 five hundred thousand dollars from the time the said receivers first took possession of said property.

Third. That at Chattanooga, Tenn., and at other points along the line of said railroad, hundreds of thousand dollars' worth of property have been seized by officers of petty courts and sold or stolen by unknown parties or otherwise disappeared, and is not now on the line of the road or in the possession of agents of the road, on account of the neglect of said receivers, or their agents, in taking the usual and ordinary means to protect said property, either legally or by hiring competent persons to do so.

Fourth. The business of said railroad at the time the said receivers took possession of said road was largely increasing both in local and through business; that by bad management, accidents occurred frequently, making the carriage of passengers and freights uncertain and hazardous; consequently the through trade was entirely lost and has not yet been recovered; the transportation of the through mail has also been withdrawn after having been awarded to the company by
553 the U. S. Post-Office Department; the local business suffered largely because shippers could not rely on having their freight forwarded without delay, preferring to ship over other routes at even greater expense.

(Sgnd.) H. M. SMITH,
Supt. Machinery.

Subscribed and sworn to before me this May 31st, 1872.

(Sgnd.) DANIEL J. DUFFY,
U. S. Circuit Court Commissioner for Eastern District of Tennessee.

JOHN J. RUTHERFORD.

Personally appeared before me, Daniel J. Duffy, a United States commissioner for the eastern district of Tennessee, John J. Rutherford, who, being duly sworn, deposes and says that he is twenty-seven years of age; that he has been engaged at different kinds of work on railroads for ten years; that he worked in the construction of the Alabama and Chattanooga Railroad for about two years and a half, until it was finished and up to within a few weeks; that he principally worked on bridge-work on the whole line of road; that the road, road-bed, bridges, and rolling stock were all new and in good condition, and fit and
554 safe for use, at the time the receivers took possession of said property; that, by the carelessness, want of proper attention, and repair, all the property has been largely damaged, in some cases destroyed, and in many others allowed to become entirely unserviceable. He further says, as instances of the damage, he will specify:

First. The depot buildings at Meridian, Mississippi, has been left open, so that anybody could go into it and through it, the walls marked and abused; the furniture partly destroyed or removed; no care seems to have been taken of the property, and, in my judgment, it will cost at least $3,000 to put the property in the same condition that it was when the receivers first took possession of it.

Second. In and near the yard at Meridian, Mississippi, he says he has seen large numbers of disabled and destroyed cars and engines, as follows, engines No. 1, 2, 5, 8, 9, 10, 13, and 14, and about fifty or more box, flat, passenger, and all kinds of cars, damaged, entirely useless, or

otherwise disabled, some of them on the yard-tracks, some of
555 them off the tracks, and generally mixed up together without any regard to care or order; he says, by calculating the expense to put these engines and cars in the same condition that they were when the receivers took first took them from the possession of the company, it will cost at least ($60,000) sixty thousand dollars.

Third. The repairs on the road, road-bed, and replacing the track, tools, hand-cars, and material that was on the road when receivers took possession and which were lost, destroyed, or ortherwise disappeared while under their control, will cost about $5,000 for that portion of the road between York and Livingston, a distance of ten miles.

Fourth. The repairs on the road, replacing the rails that are bent, kinked, and otherwise destroyed for practical use, repairs to road-bed, and replacing the track, tools, hand-cars, and material for repair on that part of the road between Livingston and Eutaw, Alabama, a distance of 30 miles, will cost about $60,000 to put it in as good condition as it was when receivers took possession; this part of the road has
556 been damaged very heavily on account of the peculiar nature of the soil, and a want of attention and care has caused it to deteriorate very rapidly and expensively.

Fifth. From Eutaw to Tuscaloosa, Ala., a distance of about thirty miles, the road, bridges, and trestles have been allowed to run down and depreciate very largely. There is about three miles of trestle-work on this part of the line that was in good condition when the receiver took possession, and for the want of repair at the proper time after the receivers took possession it had become unserviceable, out of shape, and will have to be rebuilt, if not entirely, certainly more than three-fourths of it. The iron in the track has been badly bent and worn, and large quantities of it will have to be replaced with new iron. It will cost at least one hundred thousand dollars to put this portion of the road in as good condition as it was when the receivers first took possession of it.

Sixth. From Tuscaloosa to Birmingham, Ala., a distance of about fifty miles, there is considerable bridge-work that will have to be
557 rebuilt, and some portions of the track is in very bad condition. There is about six thousand feet of trestle-work on this part of the line, much of which will have to be entirely rebuilt. Several cuts or embankments have been allowed to slide in on the track, bending and kinking up the rails, making them unserviceable and dangerous; the tools, hand-cars, and material for repair have disappeared, or have been destroyed. It will cost at least forty thousand dollars to put this part of the road in as good condition as it was formerly, when the receivers took possession.

Seventh. From Birmingham, Ala., to Attalla, Ala., a distance of about fifty-five miles, there is about two thousand feet of high trestle-work; a large proportion of this trestle will have to be replaced; the iron in many places has been bent, kinked up, and rendered unserviceable by slides in the cuts, and will have to be replaced; much of the depot-furniture, track-tools, hand-cars, material for repair, have disappeared, been destroyed, or otherwise disposed of. It will cost $35,000
558 to put the track and trestles in the same condition and restore the property as it was when receivers took possession of said property.

Eighth. At Attalla, Ala., there was a large quantity of tools, material, &c., for bridge-work, at least five thousand dollars in value, which have been destroyed or disposed of since the receivers took possession of the property.

Ninth. From Attalla, Ala., to Chattanooga, Tenn., the road-bed and bridges have been better cared for; the track, tools, hand-cars, and material repair, and some of the depot furniture has been disposed of. The property at the Eureka coal-mine, belonging to the company, has been despoiled of all its value; the rails to the mine have been torn up, the wire rope, worth $4,000, has been taken away, and nothing left except the entrance to the coal-veins; the total damage to this part of the road, with that to the coal-mine, is from $50,000 to $100,000.

Finally. He further says that damages to great value have accrued to property in Chattanooga; that iron rails, spikes, and other
559 property have disappeared from the line of the road; that great damage has been done to other portions of the rolling-stock besides what he mentions in this affidavit, and which he is unable to give in detail, but which he considers will eventually cost the company hundreds of thousands of dollars to replace and put back in the same condition as it was before the property passed into the hands of receivers.

(Sgnd.) J. J. RUTHERFORD.

Subscribed and sworn to before me this May 31st, 1872.

(Sgnd.) DANIEL J. DUFFY.

T. P. McMILLIN.

Personally appeared before me, Dan. J. Duffy, a commissioner appointed by the circuit court of the United States of America for the eastern division of Tennesee, T. P. McMillin, who, after being duly sworn, says, on oath, that he is twenty-eight years of age and by occupation R. R. agt.; have been engaged in railroad business for seven years, and connected with the Ala. & Chattanooga R. R. for the past two years and a half as local freight-agent at Chatta. station; was
560 connected with the road from Oct., '69, till it was seized. The road was in excellent management and doing all the business it had the capacity for, up to the time of the seizure thereof. The road was well equipped in 1st-class engines, both passenger and freight; new 1st-class freight and passenger cars and Pullman palace sleeping-cars. He is now and has been connected with said road since it was reopened, as agt. at Chattanooga under the management of W. T. Wofford, receiver for the State of Georgia. I do not consider the management of the road in the hands of the State authorities as near as good as originally; the stock is daily decreasing in value from constant use, and slight repairs on the southern division of the road; everything was almost entirely disabled, engines and cars turned over in the ditch and permitted to remain there until rendered almost entirely worthless, to a very great and serious damage to the company, and in some instances an entire loss to the company. His opinion is that the company
561 has sustained a loss of at least fifty per cent. on her stock of all kinds by the mismanagement since its seizure; it is his opinion that unless the road is placed under suitable management immediately it will so deteriorate in value as to be almost an entire loss to the company. At the time of the seizure of said road they had the contract to carry the through mails for the U. S. Gov't at a good rent; the seizure of the road by the State caused them to loose the mail, thereby directing mails and travel over another rout', effecting great loss to the company.

(Sgnd.) T. P. McMILLIN.

Sworn to and subscribed before me this June 6th, 1872.

(Sgnd.) DAN. J. DUFFY,
U. S. Comm'r, &c.

JACOB L. MCCALLUM.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, Jacob L. McCallum, after having been duly sworn, says that he has been connected with Ala. and Chattanooga Railroad since Dec., 1868, in various capacities, first as
562 book-keeper and acting local treas. of the transportation department of the road to Dec., 1869; was then appointed assistant superintendent of transportation department & served in this capacity until July, 1870; was then appointed master of transportation and supervisor, in which capacity he was serving at the time of the siezure of the road by the State of Alabama. He says he passed over the road from Eutaw to Chattanooga on the last train run by the Ala. & Chatta. R. R. Co.; had a good knowledge of the shops and material on hand for the repairs of rolling-stock and the construction of cars, &c. At the time the road went into the hands of a receiver there were on the road seventeen first-class engines (new) and one second-class engine, all in good condition, four first-class passenger-cars, four second class, and three third-class; there were one hundred and three freight-cars, one hundred and twenty-four flat cars, forty-eight coal-cars, and four stock-cars; the road was also furnished with leaver and hand-cars for the use of men in
563 keeping up the track; all of the above stock was comparatively new and in good condition, except the second-class engine had been run on another road. And again the shops and machinery which had been erected and obtained for the purpose of building and repairing rolling-stock for the road was all new, of good and costly material, and in good condition for use; and furthermore there was on hand great quantities of oils, paints, and other material of great value.

From the time the road was connected, 13th of May, 1871, to the time it stopped running under the direction of the company, the road-bed was in good condition for a new road. A portion of which, say two hundred miles, was in better condition than any road connecting with it, and the rolling-stock kept in good and safe running order. Two passenger coaches & first-class baggage, mail, and express cars run each way daily without serious accident, and seldom delay, making by far the fastest and quickest time of any road running in connection with it. Also freight-trains run daily each way over the road with equal
564 safety & regularity, and there was more or less rolling-stock put on the road at intervals, from the time the rails were connected to the time the road stopped, because of the continued increase of travel and freight over the line. He has not been over the line of road since it went into the hands of receivers, but being engaged with the Nashville and Chatta. R. R. as pilot of A. & C. trains between Wauhatchie & Chattanooga, says the engines & cars, with few exceptions, which have been kept and run on the northern division, are in a very dilapidated condition, & unsafe to run. Since Jan'y 1st he has been connected with the road as master of transpt. Says there has been no trains through from Meridian except one train and two engines, which the employees brought through, alleging that it was unsafe to run on the southern division or the portion of the road controlled by the authorities on the southern division, on account of the bad track, condition of the road, and the bad management of its officers. He says since the
1st of January he has had to do the business with only four box-
565 cars and two cabooses, which were arranged for hauling package freight, the balance of the box-cars being kept on southern div.; the most of which were either in the ditch or on sidings, as he is

informed that very little business was being done on that division in way of freights with these cars. He had at one time about eighteen car-loads of freight in cars and in depot at Attalla, a portion of which lay in the depot there for weeks, the authorities of southern division at Attalla refusing to receive it, saying he could not get or did not have money to pay the charges. Could have done double the amount of business even with these cars had they received the freight, paid the charges and cleared the depot; they refusing to do this, we had to refuse to receive freights destined south of Attalla, as we could not give any guarantee to shippers.

If Mr. Walsh was ever connected with the Ala. & Chatta. R. R. in any way he did not know it. He thinks the damages done to the A. & C. R. R. by the seizure of the road by the State of Alabama should not be estimated at less than one & a half million of dollars.

(S'gn'd) J. L. McCALLUM.

566 Sworn to and subscribed before me this 5th day of February, 1872.

[SEAL.] (Sgn'd) J. M. JOHNSON,
U. S. Commissioner.

A. C. CARROLL.

Personally appeared before J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, A. C. Carroll, of the firm of Crawford, Carroll & Co., proprietors of stock-yard, sale and livery and feed stables, who, being sworn, deposes and says: There has been a large amount of stock, probably from fifty to one hundred car-loads that would have shipped over the Alabama and Chattanooga Railroad, but for a lack of cars and the uncertainty of getting stock through after it was loaded on the cars here. This amount of stock would have been shipped since the 1st of October, A. D. 1871.

Given at Chattanooga, Tenn., Feby. 6th, 1872.

(Sgnd.) A. C. CARROLL.

Sworn to and subscribed before me this 6th day of February, 1872.

[SEAL.] (Sgnd.) J. M. JOHNSON,
U. S. Commissioner.

567 S. H. COREY.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States for the eastern district of Tennessee, S. H. Corey, of the firm of W. Crutchfield & Co., wholesale dealers in dry-goods, groceries, boots & shoes, &c., in Chattanooga, Tenn., who, first being duly sworn, deposes and says that, for the last eight months the merchants along the line of the Ala. & Chattanooga Railroad have greatly suffered from detention of goods and merchandise purchased for immediate sales, they in almost all cases not being able to receive their freights for many days and weeks often after their purchases, and then only by paying exhorbitant rates of freight for the same; and, further, that many merchants along the line have been ruined in their business from causes above noted. Also, from his positive knowledge, goods have lain in depots in this city waiting shipment over the line to Tuscaloosa and other points, for weeks, because the acting authorities of the road would not advance charges on the same. This did not occur at the early opening of
568 the road as the company seemed anxious to accommodate shippers along the line. It is further the opinion of this deponent,

that if the management of the road is left under the control of the present receiver, the road in a short time must be inevitably ruined as to its future earnings; the country through which it passes will suffer (as it is now doing) incalculable injury. The rolling-stock of the road, when injured, has been thrown aside and suffered to become useless for want of repairs; and at this time there is not stock enough on the road for one-fourth of its present business; whereas, on the completion of the road, no finer trains of freight or passenger cars came into our city from off any road tributary to it; thus rendering the loss of this stock through negligence of incalculable injury to the company.

(Sgnd.) S. H. COREY.

Sworn to and subscribed before me this 3rd day of February, 1872.

(Sgnd.) J. M. JOHNSON,
U. S. Commissioner.

569 CHARLES M. MOORE.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, Charles M. Moore, who, being duly sworn according to law, deposes and says that he is a resident of Chattanooga, Hamilton County, Tennessee, and has been employed on various railroads for the past eight years. Was employed on the Alabama and Chattanooga Railroad Decr. 18th, 1870, by the receiver in charge, as locomotive engineer, and has held that position until the present time. There are few, if any, section-men on the road between Attalla and Birmingham, and no organized force on other portions of the road, and the road-bed, track, &c., are in bad condition, and in some places actually unsafe for passage of trains.

The damage to machinery and rolling-stock has been very great, and part of the machinery can never be put in serviceable condition, and all of it needs repairs and is daily deteriorating in value.

I have not received any pay for December up to the present time, and all the employees are in the same condition. In making application for pay to Treasurer Randolph, he replied that they had no funds
570 to pay the men. The men in charge of the road under the receivers are incompetent and reckless, and often intoxicated; and the trains are run without regularity, and accidents have occurred at many points along the line, destroying and damaging engines, cars, &c., to an immense amount; and in many, if not all, cases, even where there is gross carelessness and culpability on the part of the men in charge of trains, no notice was taken of their conduct by receivers and other officers, but they were allowed to continue on the road without punishment of any kind.

About Jan. 1st, 1872, the south-bound freight-train ran off the track, and her cars were ditched, and due notice of the accident was given the officers in charge of the road, which was caused by the track being in an almost impassable condition. About Jan. 5th or 6th, 1872, when my train attempted to pass the same place, two cars again were ditched, and one nearly destroyed, and tearing a small trestle partly down; no work had been done on this point between the time of the two accidents, although nearly a week intervened. Almost three miles north of this point a number of cars have been
571 ditched at various times, and some three or four are still lying there, in addition to several that have been entirely destroyed.

I have never seen Mr. Walsh, nor have ever heard that he has been on the line of the road; no orders have been received from him or

through him, nor has he taken charge of the property or running of trains, and I have been employed up to the present time by receivers in charge of the road mentioned.

(S'gn'd) CHARLES M. MOORE.

Sworn to and subscribed before me this 3rd day of February, 1872.

[SEAL.] (S'gn'd) J. M. JOHNSON.

HENRY Z. CHAPMAN.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States for the eastern district of Tennessee, Henry Z. Chapman, of the firm of Chapman, Foster & Co., of Chattanooga, Tennessee, manufacturers of flour and feed, who, being duly sworn, deposes and says that during the time the Alabama and Chattanooga Railroad was managed and controlled by the company its business was transacted promptly and efficiently, and shippers
572 of freight had every facility that they required, to the full extent of their demands; he never knew of any freight being delayed from want of cars or any other cause, but that since the road was under the control of J. H. Gindrat, receiver, the rates of freight and the prices of tickets had been increased; freight-trains arrived and departed irregularly, without regard to any schedule-time; that his own freight and that of his customers had been delayed weeks, and in some instances over a month at a time, for the want of cars and from causes which could not be explained by the managers of the road. The cars and rolling stock generally is in worse condition now than when it was in possession of the company.

The management of the road by the receiver is ruinous to the very best interests of the people of Alabama, living along the line of the road, and every merchant or shipper with whom we have had business transactions complain bitterly of the expense, delay, and ruin that this management is entailing upon them; whenever it is practicable, freight is now shipped by other railroads, in a round-about way, to points on the A. & C. Railroad, at rates not exceeding what has been
573 charged and in much less time. We are now receiving orders daily from customers living along the line of the A. & C. Railroad who direct their freight shipped by other roads, on account of the uncertainty, delay, and expense of shipping by the A. & C. R. R.

(S'gn'd) H. Z. CHAPMAN.

Sworn to and subscribed before me this 5th day of Febr'y, 1872.

[SEAL.] (S'gn'd) J. M. JOHNSON.
U. S. Commissioner.

C. H. MILLS.

C. H. Mills, of the firm of Mee & Mills, merchants, doing business in Chattanooga, Tenn., who, being duly sworn, deposes as follows: That since the receivers have had charge of Alabama & Chattanooga R. Road they have been informed and do believe that merchants along the said road have suffered from detention of goods, wares, and merchandise purchased for immediate use; that goods have remained in the depots for days and sometimes for weeks before they were shipped. The management of the road between Chattanooga and Attalla have not given us or the public, as we are informed, so much trouble. We have
574 been compelled to overpay freights on goods consigned to parties below Attalla to secure their delivery. At times we have been

compelled to ship goods via Calera on the Selma, Rome & Dalton Railroad for points on the A. &. C. R. R., for the reason *for the reason* that the parties ordering goods had no assurance that they would ever get their goods when shipped direct on the A. & C. R. R. They are further informed that there has been much destruction of rolling-stock on the lower road, and that the road has been badly mismanaged.

(S'gn'd) C. H. MILLS.

Sworn to and subscribed before me this 5th day of February, 1872.

[SEAL.] (S'gn'd) J. M. JOHNSON,
U. S. Commissioner.

LEMUEL J. STANDEFER.

Personally appeared before J. M. Johnson, a commissioner duly appointed by the circuit court of the United States for the eastern district of Tennessee, Lemuel J. Standefer, 54 years of age, a resident of Gadsden, Alabama, by profession a lawyer, who, after being duly sworn, says, on oath, that he did some of the law business for the Alabama and Chattanooga Railroad Company in the fall of 1867, and that
575 said company engaged his services in February, 1870, and that he has been so engaged up to this time, and as they, the company, advanced in the construction of the road they put on engines and cars as the necessities of the country required; that the business of the company was such that it required him, as one of the attorneys of the road, to spend most of his time along the road at various points from Chattanooga to Meridian; that at the time of the connection of the road there were 18 or 19 engines, all first-class and in good condition, except one had been run on another road; I do not remember the number of cars, but there were from seven to ten first-class passenger-cars, and a less number of second-class, all in fine running condition; there were a great many box-cars, and still a greater number of flat cars; my recollection is that there were at least two hundred and fifty cars in all.

Being thus connected with the road, I had a good opportunity to know of the conduct and management of the conductors and officers. So far as my knowledge extends, they were all (with few ex-
576 'ceptions) prompt, energetic, and sober, and gave general satisfaction to the travelling and shipping public. The road was kept in good condition with the exception of some of the trestles, which were rather temporary.

There were one or more passenger-trains and the same of freight daily each way, from Chattanooga to Meridian, and there were quite a number of good hands on each of the sections on the whole line of the road to keep it in repairs. I had occasion to pass over the whole line of the road in October last, and at other times as far as Elyton. I saw and was informed by the persons running the road that between Attalla and Meridian that some of the rolling-stock was in the ditch, some of it broken up, some in a condition that it was not safe to run it, and I must confess my great surprise to find the road and rolling-stock in such a dilapidated condition after it passed into the hands of the receivers, and to hear such universal complaint among the creditors, citizens, shipping and traveling community as to the rude and irregular management, and drunkenness of many of the men that were controlling
577 and running the road; and as I have common interest with the citizens of Alabama in the welfare of the State and the successful operation of the road, I deem it proper to state that from the information which I have from high authority as to the killing and crippling of passengers on the road in its present condition and under the manage-

ment of those who are controlling and running it, that it is certainly manifest that the State is liable for large damages; and further, the occupation of the road for the time, the destruction and damage to the property, will certainly damage the company one million of dollars. Mr. Walsh has not now and never has had any control of the road.

(Sgnd.) LEMUEL J. STANDEFER.

Sworn to and subscribed before me this 3rd day of February, A. D. 1872.

[SEAL.] (Sgnd.) J. M. JOHNSON,
U. S. Commissioner.

578 B. F. GARDNER.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States for the eastern district of Tennessee, B. F. Gardner, who, being duly sworn, deposes as follows: I am a practicing physician, 35 years of age, and reside at Chattanooga, Tennessee; have been connected with the Ala. & Chatta. R. R. from Feb'y 6th, 1869, up to the time of its seizure by the State of Alabama, as surgeon and physician. My duty called me each day along the entire line of construction, and am free to say, (although intimately connected with large bodies of confederate soldiers during the war,) I never saw men under better control or more judiciously managed. My attention was directed to their food, both in quantity and quality, their shelter, and to everything pertaining to their comfort in health, and their care and treatment in sickness—drunkenness and idleness were not tolerated. The general good behavior of the construction department was highly commented on by citizens along the line and noticed by all observers. The construction and running of the road governed by
579 judgment and deliberation, showed skill and tact, while all rules and regulations were strictly enforced.

All officers were instructed, and expected, by all means in their power, to make the running of the road safe and comfortable. Due courtesy and respect were shown to the travelling public, while special attention was given to the accommodation and interest of citizens living along the line. No accident occurred from neglect or carelessness up to the time the road passed from the hands of J. C. Stanton, who had the confidence and respect of all his subordinates. From this time all changed, and confusion took place of discipline and order; trains were stopped, collisions occur, road-bed neglected, cars become dirty, the running-gear out of order, making life and property unsafe. The rights of citizens, creditors, and travelling public totally neglected. Property attached by creditors has been injured and in part destroyed, and I do not believe the road, if sold now, would bring near so much as when it passed to the control of the State of Alabama.

(Sgnd.) B. F. GARDNER, M. D.

580 Sworn to and subscribed before me this 5th day of February, 1872.

(Sgnd.) J. M. JOHNSON,
U. S. Commissioner.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, John P. Hodges, of the firm of Warnucutt & Hodges, wholesale dealers in groceries, tobacco, provisions,

&c., in Chattanooga, Tennessee, who, being duly sworn, says on oath that under the administration of the company the Alabama and Chattanooga Railroad carried freights and passengers at low rates; freights were delivered promptly and no delays occurred, and all business transactions with the office of said road were agreeably performed in a business like manner. But since the running and management of said road has passed into the hands and under the direction of receivers, great inconvenience and loss have been caused all along the line of said road by detention of freights and irregularity of trains, and the
581 charges on freight have been doubled and the delay in shipping and receiving goods is intolerable and ruinous to all business interests. Our customers along the line of the road have no assurance of receiving their goods when they buy them and order them shipped.

(S'gn'd) JNO. P. HODGES.

Sworn to and subscribed before me this 5th day of Febry., 1872.

(S'gn'd) J. M. JOHNSON,
U. S. Commissioner.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, William T. Goodwin, who, being first duly sworn, says: I am forty years of age; reside in Chattanooga, Tenn.; am by occupation a merchant, of the firm of Devine and Goodwin, wholesale grocers; never was connected with the A. & C. Railroad. From the shipping I have done on said railroad have had an immense amount of trouble; am thoroughly satisfied it has not been the fault of the officers at Chattanooga, as they have uniformly
582 given me every facility for shipping in their power, crippled as they were by their rolling-stock having been taken and retained on the southern division.

The great trouble seemed to be at Attalla, caused by authorities of southern division at that place not paying freight or back charges promptly. I have in several instances taken goods from A. & C. depot and sent them by the S., R. & D. R. R., under instructions from the parties to whom they were consigned, and have now positive orders to take goods from the connections at Chattanooga and send by the other routes until the road is more efficiently managed. I saw at Attalla on the 25th ult. a large quantity of freight in hands of officers of the northern division ready for delivery, but the agent informed me they would not receive them. About the last of December I made a shipment of goods from Chattanooga to Elyton, and they had not reached their destination a few days since. On tracing them I found they left Chattanooga promptly, and must have been delayed at Attalla.

I am satisfied from the bad management of the road on the part of the officers of the southern division that it is losing an immense
583 amount of freights and passenger travel.

(S'gn'd) W. T. GOODWIN.

Sworn to and subscribed before me this 5th day of February, 1872.

[SEAL.] (S'gn'd) J. M. JOHNSON,
U. S. Commissioner.

JAS. H. VAN ALSTIN.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, James H. Van Alstin, after having been

duly sworn, says that he, the said Jas. H. Van Alstin, has been connected with the Alabama and Chattanooga Railroad for nearly two years in various capacities, clerk, auditor, book-keeper, and assistant paymaster under the management of the said John C. Stanton as general superintendent from April, 1870, to July, 1871, and from August, 1871, by the State of Alabama, through its attorney, James H. Clanton, till October 19th, 1871, and from November 18th, 1871, to Feby. 5th, 1872, by W. T. Wofford, receiver for the portion of said road running through the State of Georgia. And that the said James H. Van Alstin knew the condition of said Alabama & Chatt. Railroad at the time the State of Alabama took charge of said Ala. & Chatta. Railroad.

584 At the time Alabama took charge of said road some two hundred miles of said road was in good condition. Engines, cars, depots, round-houses, &c., equal to any road North or South. The management of the said Ala. & Chatta. at the time Alabama took charge of same was equal to any road. And if the management had continued with John C. Stanton as general superintendent at this time with the rolling-stock and mail-pay and arrangements made by advertising and making connections with connecting roads, the gross receipts of the said Alabama and Chattanooga Railroad would be about one hundred thousand dollars per month, but under the management of John H. Gindrat and his assistant general superintendent, H. F. Wheeler, said Ala. & Chattanooga Railroad has deteriorated in value fully one-half of its value at the time Alabama took charge of the same.

It is the opinion of the said J. H. Van Alstin that the earnings of the said Ala. & Chattanooga Railroad, under the management of said John H. Gindrat, that the receipts (gross) have not been more than fifteen thousand dollars per month from August, 1871, to Janu-

585 ary 1st, 1872. Also that the property of the said Ala. & Chattanooga Railroad Company, lumber for the new union depot in Chattanooga is decaying and going to wreck, owing to receiver of same not taking care of same. Also, that the cars are being destroyed by some malicious persons, being cut with knives, and all owing to the management of John H. Gindrat and his assistant general superintendent, H. F. Wheeler.

(S'gn'd) JAS. H. VAN ALTINE.

Sworn to and subscribed before me this 5th day of February, 1872.

[SEAL.] (S'gn'd) J. M. JOHNSON,
U. S. Commissioner.

EDWARD CARTER.

Personally appeared before me, Henry S. Skaats, a United States commissioner for the southern district of Alabama, Edward Carter, who, being sworn, says that he is a railroad man and was employed in the construction of the Alabama and Chattanooga R. R. That he was well acquainted in all different departments. That it was at the time of its completion one of the best constructed roads in the country, sufficient rolling-stock to do the business, and successfully man-

586 aged. The officers were efficient railroad men and passengers and freights were delivered safely and promptly. Since the road passed to the control of the State and bankrupt court, the property has been squandered, stolen, and recklessly used, and the road has depreciated very much in value; while there is no regularity in the deliv-

ery of freight and passengers. The road-bed is out of order, and tr
cannot be run with safety, nor has there been any system in its m
agement.

(S'gn'd) -EDWARD CARTER

Subscribed and sworn to before me this 21st day of June, A. D. 18

(S'gn'd) HENRY S. SKAATS,
U. S. Commissioner Southern District of Ala.

I. N. WRIGHT.

Personally appeared before me, Henry S. Skaats, a United State
commissioner, I. N. Wright, who says that he was employed on the Al
bama & Chattanooga Railroad from August, 1874, up to its seizure b
the State of Alabama. At this time it was one of the best roads in th
country, the best material being used in construction. The running
department was in perfect order—engines, cars, depots, machine-
587 shops, and machinery new and well cared for. The business
was good and constantly increasing, and in fact no road had bet-
ter prospects for success than this.

After the State took possession the stock was allowed to run down,
the track get out of order, rendering travelling unsafe. There seemed
to be no competent person managing it. Property was stolen and car-
ried off, and the property deteriorated, and it is not worth by one and a
half million dollars what it was when the State took possession.

(S'gn'd) I. N. WRIGHT.

Subscribed and sworn to before me this 21st day of June, A. D. 1872.

(S'gn'd) HENRY S. SKAATS,
United States Commissioner Sou. Dist. Alabama.

Filed June 21st, 1872.

(S'gn'd)

588 N. W. TRIMBLE, *Clerk.*

Answer of Chas. Walsh.

In the circuit court of the United States for the southern district of Alabama. In chancery.

The answer of Charles Walsh, one of defendants, to the bill of com-
plaint of Seth Adams, Francis B. Loomis, and John C. Stanton,
trustees, &c., complainants, against The Alabama and Chattanooga
Railroad and others, defendants.

This defendant, saving to himself all exceptions to said bill of com-
plaint, for answer thereto saith that all the allegations of said bill, ex-
cept so far as the same concern himself, may be true, for all he knows to
589 the contrary, but he is a stranger to the same, and cannot form
any belief concerning the same.

Further answering, he saith he admits his appointment by the
chancery court of the county of Sumter, Alabama and by the United
States circuit court for the southern district of Mississippi, as receiver, &c.,
of said railroad and property, and that he qualified as such receiver, and
that he took possession of said railroad and property; but he denies that
he even operated said railroad. On the contrary, defendant states that
immediately after he took possession he was served with an injunction, is-
590 suing out of the district court of the United States for the middle
district of Alabama, restraining him from acting any further in re-
spect of said property, and that he has obeyed said injunction.

Defendant further states that he did give the Mobile and Ohio Railroa

Company his consent and license to operate the said railroad, said company having obtained authority from other persons who were understood by defendant to have some right to interfere in the matter. Defendant states that the chancellor of the chancery court of Sumter County has approved and confirmed defendant's said action in giving said leave and license to said Mobile and Ohio Railroad Company.

591 Further answering, defendant states that in taking possession of said property and in holding the same until stopped by said injunction he took good care of said property, and expended money from his own pocket in and about the care of the same, for which he has not yet been re-imbursed.

Further answering, defendant states that he is yet receiver, &c., under the appointment of the said chancery court, but that his appointment as receiver, &c., for that part of said railroad in the State of Mississippi has been revoked and annulled at the instance of the assignees in bankruptcy, as defendant is informed and believes. Defendant further

592 states that said injunction against him as receiver, &c., for the State of Alabama is yet in force, and that therefore defendant is doing nothing in the way of managing or caring for said railroad and property.

And now, having fully answered, defendant prays to be hence dismissed with his reasonable costs, &c.

E. H. GRANDIN,
Solicitor for Defendant.

SOUTHERN DISTRICT OF ALABAMA, *ss:*

Before me, a commissioner of the United States, &c., for said

593 district, personally appeared Charles Walsh, defendant above named, who, being duly sworn, on his oath saith that the facts, matters, and things set forth in the foregoing answer are true, when stated as of his own knowledge, and that he believes them to be true when stated as upon information and belief.

CHARLES WALSH.

Sworn to and subscribed this 21st June, 1872, before me.

N. W. TRIMBLE,
U. S. Commissioner.

Filed June 21st, 1872.

N. W. TRIMBLE, *Clerk, &c.*

594 *Package 3.*

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, James W. Oliver, who, being duly sworn, deposes and says that he has been employed by railroads in various capacities for the last fourteen years; that he has been a railroad conductor for about twelve years; that he entered the employ of the Alabama & Chattanooga Railroad in April, 1871; from that time up to the time the road passed into the hands of a receiver the road and rolling-stock were in fine condition; trains were run on schedule-term from Chattanooga, Tenn., to Meridian, Miss., in fourteen hours, without any serious accident, and with but few delays.

After the road passed into the possession of a receiver, he continued in his position of conductor up to the present time; the road has been gradually depreciating in condition; the track has been neglected; there has been but three gangs of section-men employed on the road from Attalla to York, Ala., several accidents have occurred that have

more or less injured the rolling-stock, caused by bad track and by
595 employing incompetent railroad-men. In December last two passenger-coaches on my train ran off the track, and on the third trestle north of Carthage, caused by the track being out of line. There was also a run-off north of Kennedale, caused by imprudent running, in which several cars were badly damaged and broken. The road has been under the control of J. H. Gindrat as receiver, and has never been under the control of Chas. Walsh as receiver. Have never heard of Mr. Walsh on the line of the road; if he had any authority, my position would have enabled me to know of it; Mr. Walsh, to my knowledge, has never attempted to obtain possession of the road.

J. W. OLIVER.

Sworn to and subscribed before me this 5th day of February, 1872.

J. M. JOHNSON,
U. S. Commissioner.

596 Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, L. Thomasson, commission merchant and wholesale dealer in flour, grain, hay, &c., in Chattanooga, Tennessee, who, being duly sworn according to law, deposes and says that while the Alabama & Chattanooga Railroad was in charge of the company its affairs was conducted in a business-like manner, freights were carried at reasonable rates, and shipped & delivered promptly and in good order, and the managers and employees worked to accommodate the merchants and traveling public. But for some months past, and since the road has passed into the hands of a receiver, freights are detained for days and weeks in the depots before shipment, to the great detriment and loss to the merchants and public along the line of said road. Charges on freights have been materially increased and in some cases doubled, and general distrust and dissatisfaction has been caused by the want of system on the part of those in charge since the re-
597 ceivers commenced the management of the affairs of said road.

(S'gn'd) L. J. THOMMASSON.

Sworn to and subscribed before me this the 5th day of February, 1872.

[SEAL.] (S'gn'd) J. M. JOHNSON,
U. S. Commissioner.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, Ellis B. Edwards, of the firm of D. Kirkpatrick & Co., rectifiers and wholesale liquor-dealers in Chattanooga, Tennessee, who, after having been duly sworn, says on oath that for some months past and since the Alabama & Chattanooga Railroad has been in charge of receivers the merchants along the line of said road have been incommoded and suffered loss from detention of their freights, which was caused by the want of system on the part of the receivers and their subordinates in charge of said road, and in some cases freights have been delayed for days before they were sent to their destination; and
598 the charges on freights have been increased and in some cases doubled. Previous to this time and while the company had charge of the management of the Alabama & Chattanooga Railroad, trains were run on regular schedule, without detentions, freights were carried at low rates and delivered promptly, and all transactions were conducted in a

business-like manner. At the present time trains run less than one-third the length of the road, and the business community are cut off from all communication with their customers, and the people along the line have no safe means of obtaining goods and merchandise for their use and consumption.

ELLIS B. EDWARDS.

Sworn to and subscribed before me this 5th day of February, 1872.

J. M. JOHNSON,
U. S. Commissioner.

Court of the United States of America for the eastern district of Tennessee.

THE EASTERN DISTRICT OF TENNESSEE:

598½ JAMES R. SLAYTON, who being duly sworn says: I am thirty-three years of age. I reside in Chattanooga, and am a railroad contracter. I was engaged on the Alabama and Chattanooga Railroad from the commencement of its building in Dec., 1868, until its completion in May, 1871, as a contracter. The road was first class in all its appurtenances and the best built new road I ever saw, except some little temporary track and trussels below Tuscaloosa. The road was well managed, and Mr. Stanton had the entire confidence of most of his subordinates until the discharge of Mr. Wheeler, and I believe the trouble that occur'ed about the time the State of Alabama took the road originated mostly through his influence, and I am confident if Mr. Stanton could have retained the management of the road it would have by this time been in much better condition than when finished, and would have been earning from one hundred to one hundred and seventy-five thousand dollars per month, and would have been operated outside the purchase of new locomotives for fifty per cent. of that amount. Since the road was seized by the State I know very little of its workings ex-

599 cept what has come under my observation in Chattanooga and what I have gathered from employees and different gentlemen living along the road in Georgia and Alabama, and from what I learn of these men the management of Gindrat and Wheeler have been more like the management of a mob than of efficient railroad men. The road has not been kept repaired and the rolling-stock has been allowed to run down until accidents and casualities are of frequent occurrence, freight whose natural channel would be over this road is forced over circu'tuous routes, and there is little, if any, through travel, and no mails except local are carried over the line, and these with no regularity. Whiskey-drinking seems to be the order of the day from the asst. gen. superintendent down. Through these means the shippers and travelling public have lost all confidence, and it will take months of efficient management and the outlay of many thousand dollars to put the road, in point of business and the condition of its rolling-stock and track, even as

600 good as when the State took possession. I have seen notice in newspapers that one Mr. Walsh has been appointed receiver by the chancery court in Sumpter County, Alabama, but I am certain he is not in possession of the road, as I have recently seen a communication from Mr. Gindrat, signed officially, and to day a new schedule goes into effect signed by Wheeler.

JAMES R. SLAYTON.

Sworn to and subscribed before me this 5th day of February, 1873.

J. M. JOHNSON,
U. S. Commissioner.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, J. F. Ruoff, partner of Gillespie & Co., lumber-merchants and owners of planing-mill at Chattanooga, Tennessee, after having been duly sworn, say on oath that (1) at the time of the stoppage of the road the firm had a good many contracts for lumber along the *the* line of A. & C. R. R. for buildings in contract in Chat-
601 tanooga, which we had a good deal of trouble to get up from other places and at a good deal of loss.

2nd. That for two or three months we could not order any lumber at the higher rates we had to give on other roads, as it was uncertain that the market would *would* be flooded with lumber for cheaper prices brought to Chattanooga by the A. & C. R. R.

3rd. That since the road is started there was no certainly whether you could get the lumber shipped in one or three weeks and we have abandoned entirely to make contracts for lumber along the line of the A. & C. R. R.

J. T. RUOFF,
For Gillespie & Co.

Sworn to and subscribed before me this 5th day of February, 1872.
J. M. JOHNSON,
U. S. Commissioner.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United State of America for the eastern district of Tennessee, Aaron H. Green, time-keeper, &c., of the Alabama and Chattanooga Railroad Company, after having been
602 duly sworn, says on oath that he has been employed by said road as above stated, with office at Chattanooga, Tennessee, since June 6th, 1870, until seizure of said road by State of Alabama, and has had entire supe'vision of the time of all employees of headquarters office, of shops, of yardmen, of bridge, trestle, and section men of northern division of said A. & C. R. R. Co., and during a portion of said period of those of southern division also. That *to* said Green were required to report the whole corps of headquarters attachees, viz: superintendant, treasurer, auditor, book-keepers, passengers, freight & ticket agents, and other attachees, and were found on duty under penalty of discharge punctually each day at 8 a. m. till 12 m. and from half past one until 6 p. m. That all employees connected with shops, with yard, or with running of trains, as also all section and bridge & trestle men, were held to strict accountability of time & material, and returned their reports once each week; that such reports were duly and systematically transferred to the rolls; that all disbursements were accounted for, to the minutest fraction; that said Green having acquired by such means a fair knowledge of the general business
603 affairs of said A. & C. R. R. Co. is enabled to aver that such business was conducted in a manner the most expeditious, the most systematic, and the most economical possible; that at the time of seizure the entire business was working like clock-work, trains were making schedule time, sections managed systematically and with economy, bridge & trestle men reduced to proper working force; lands belonging to the said company on line of road were selling rapidly; agencies were established at various points in the United States bidding fair to a still more rapid sale of said lands, the result of which would bring a fair revenue in itself; contract for carrying the United States mail had just gone into effect; the emoluments thereof were being

earned; prospects were fair for the road paying all expenses and a handsome profit in a short time; nothing appeared to be wanting to complete success of the enterprise except an additional supply of rolling-stock, to answer the demands of a rapidly-increasing demand of traffick, and in fact all business of the road was being carried on in a business way & with harmony, excepting a few interruptions
604 by lawless rioters at southern terminus; that in accordance with knowledge so acquired and for having been still actually employed in business transactions connected with said road by order of the general superintendent of said road since the seizure of said road & appurtenances by said State of Alabama, he believes the damage sustained by said A. & C. R. R. Co. in consequence of such seizure to be so serious that the whole of the property so seized is not now worth more than one-third its value at the time of seizure. He also avers that he never knew Chas. Walsh; never knew of any of his transactions whatever; never knew him to occupy the position of superintendant, agent, or receiver, or in any way connected with said road, aside from newspaper reports.

AARON H. GREEN.

Sworn to and subscribed before me this 5th day of February, 1872.

J. M. JOHNSON,
U. S. Commissioner.

605 Personally appeared before me, James M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, James D. A. Harris, a resident of Bridgeport, Alabama, who, first being duly sworn, says he has been acquainted with the Alabama & Chattanooga for more than eighteen months, was connected with the commissary department of said road about nine months, & during this time the running of the road was of first class, officers & other employees attending to their duties as becoming gentlemen, administering to the welfare of the road as well as the community at large. Trains ran regular, making schedule time. Conductors & other train-hands industrious, sober, and prompt in all their business transactions, neat and tidy with their engines & coaches, and cars and engines were all new and kept clean and in order up to the time the said road was seized by the State of Alabama. He avers that he has frequently been over the line of said A. & C. R. R. since the seizure of said road by said State. That the engines & passenger coaches or cars are in an exceeding bad condition. Engines dirty,
606 coaches or cars dirty and filthy, in many places cut or whittled as with a knife, both the head-linings & the seats, and some of the seats broken. He has seen conducter and other train men treating from private bottle while in charge of train. Was also in freight office at Attalla, Alabama. Asked the agent at that place why he did not ship certain furniture. The agent's answer was that he did not know or care. Other freights enquired for could not be found.

JAMES D. A. HARRIS.

Sworn to and subscribed before me this 5th day of February, 1872.

J. M. JOHNSON,
U. S. Commissioner.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, Henry N. Snyder and Henry M. Lake,

partners under the firm-name of Snyder and Lake, wholesale and retail dealers in groceries, grain, hay, &c., in Chattanooga, Tennessee, who being duly sworn according to law, depose and say that during
607 the time the company had charge of the management of the Alabama and Chattanooga Railroad trains were rūn regularly, and freights and passengers carried at low rates, and the managers seemed anxious to accommodate shippers along the line of said road. But since said road has passed into the hands of receivers, & for the past six or eight months freights and merchandise have been detained, thereby causing great inconvenience and loss to merchants along the line of said road; and at the present time no freights can be shipped with safety beyond Attalla, leaving the people living along the line for over two hundred miles of said road without regular communication or any safe means of obtaining supplies of goods, wares, and merchandise, and charges on freights and passage have been heavily increased.

H. N. SNYDER,
H. M. LAKE.

Sworn to and subscribed before me this 5th day of February, 1872.

J. M. JOHNSON,
U. S. Commissioner.

608 Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, William W. Wood, who, after being duly sworn, says on oath, that he run through on the Alabama & Chattanooga Railroad as a baggage-master from the 11th day of November, 1871, to the 14th of December; that during said time the said road & rolling-stock continued to go down, & that if any repairs were made to the rolling-stock it did not come to his knowledge; that from Atalla to Meridian, something over two hundred miles, much of the road became unsafe & endangered the rolling-stock as well as the lives of the people; that the conduct of the officers & many of the men was unbecoming their position and trust; many of them, from the assistant superintendant down, were frequently drunk & drinking to great excess. At some times the train, or a part of them, run off the track, because of the condition of the rolling-stock; at other times because of the condition of the road, & the 14th of December an engine & all the train was run off the track in the vicinity of Komdale, where the road was
609 apparently in good condition, by wild running. & the engeneer was discharged because he was drunk; at this time much damage was done, & his information is that some of the cars are still by the wayside. When he left that part of the road there was but few men on the sections to look after the condition of the road. There were weeks that there were no brasses for any of the cars; we were compelled to put in such of the old brasses as we could gather up, & this left the cars to run much of the time without brasses, & consequently the journals were running during that time on the wedges which wore some of the flanges off.' He went over the line from Chattanooga to Birmingham the 9th of January & found that there were no section-hands on the road from Attalla to that point, & the road and rolling-stock were in worse condition than when he left it 14th of December. Mr. Walsh has not now nor never did have any control of the road, so far as I know.

WILLIAM W. WOOD.

Sworn to and subscribed before me this 5th day of February, 1872.

J. M. JOHNSON,
U. S. Commissioner.

610 Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, William T. Stewart, who, being duly sworn, deposes and says that he is a resident of Chattanooga, Tennessee; that he has been employed by various railroads for the past six years as a railroad engineer; that he commenced running on the Alabama & Chattanooga Railroad in July, 1870, and that he has been on the road most of the time since. While the management of the road was control'ed by the company it was in good condition, for a new road; there were seventeen first-class engines, one second-class engine, over one hundred freight-cars, nearly two hundred flat-cars, about eight first-class passenger-cars, four second-class passenger-cars, and enough baggage and mail cars to supply all the trains. All this rolling-stock was in first-class condition and in good order; the depots, round-houses, shops, and machinery for building all kinds of cars were new and in most excellent order and condition. Conductors, engineers, and all employees attended strictly to their duties, were of temperate
611 habits, and under strict discipline up to the time the road passed into the hands or control of a receiver, and up to this time all the cars and engines were kept in good order. Since the road has been operated under the orders of Gindrat and Wheeler, trains have been frequently running off the track, throwing engines and cars into the ditches, causing great damage; at other times collisions occur, which are always attended with great loss and damage. I am now running an engine on the A. & C. Road, from Attalla to Birmingham; I am by orders from Gindrat and Wheeler. I have never seen Mr. Walsh on the line of the road, nor have I ever heard of his having been there. I have never received any orders from him or from any one acting under him; neither have I ever heard of his attempting to control the road or the property of the Alabama & Chattanooga Railroad. I have not seen nor heard of any men being employed in taking care of the track from Attalla to Birmingham, nor have I heard of any organized force being employed from Birmingham to Meridian in keeping
612 up the track and the road in good repair. Much of the track is in bad condition, and unless it is repaired soon it will be too unsafe to run trains. For the past week I have been running an engine for J. H. Sharp, conductor, from Attalla to Birmingham, who informed me that he is keeping all the money he collects to pay him for his services now being rendered and for the back pay which is due to him; that he did the same thing the week before, when one Rufus Dyke run as his engineer. There is great complaint among the employees of the road because they have not received their pay since the road went into the hands of Gindrat & Wheeler. I have not received my pay for December and January last. I told the conductor I would not move any more trains if he continued to keep all the money he collected. I saw Mr. Randolph, the treasurer, and Mr. Wheeler, and they promised me my December pay if I would move the freight from Attalla. I did move it, but have not received my pay as yet.

W. T. STEWART.

Sworn to and subscribed before me this 3rd day of February, 1872.

J. M. JOHNSON,
U. S. Commissioner.

613 Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States for the eastern district of Tennessee, David A. Walker, now of Blount County,

Alabama, 37 years of age, by occupation a railroad contractor, who, being duly sworn, deposes and says that he has been engaged in building railroads for sixteen years; that he commenced work on the Alabama & Chattanooga Railroad about April, 1869; that he continued to work on the same until it was finished, and then was employed as general supervisor of the road, and had charge of all men employed in keeping up the track and the road-bed.

He further states that he laid all the track from the northern terminus of the road to a point about twelve miles below Tuskaloosa, Alabama; that said track was of the best class used, and was as good if not better than any track south of the Ohio River; that the track and road-bed, for a new road, on the whole line was good and in first-rate condition, with the exception of a few miles in the vicinity of Eutaw.

For a new road, just opened, it was operated and managed better
614 than any other I had ever been familiar with, until it passed into the hands of the receiver of the State of Alabama. The rolling-stock was all new and in the best condition. After the road was built I counted the number of new iron rails that were in excess of the quantity required to complete the track. I passed over the road in a hand-car for this express purpose, and found that there were between four and five miles of new iron, enough of spikes to lay the iron, and an excess of iron fish-plates, bolts, and nuts to lay the iron. The most of all this material was lying alongside of the track, where it was supposed it would be required, between Tuskaloosa, Alabama, and Meridian, Miss. At the time the road was completed there had been about four miles of old iron taken up out of the track and replaced by the same quantity of new iron. This old iron was left lying alongside of the track in the neighborhood of Toomsuba and Meridian.

He further states that he has passed over the road a few times since it has been in the hands of the receiver of the State of Alabama;
615 that he has noticed the track and road-bed has gone down considerably, and that the engines and cars are not kept as neat and clean nor in as good condition as when the road was under the control of the company.

He further states that he is now a contracter on the South & North Railroad. As such contracter he has to ship supplies over the Alabama & Chattanooga Railroad; that he meets with many delays in getting his freights; that he has now two car-loads of freight in Chattanooga, which has been laying there in the depot eight days, and has also some laborers that are required on his work, and has failed to have them transported, and has applied to the proper officers to get them transported, but has been informed that they could give him no information of the movement of the trains below Attalla, Ala.

Deponent further states that when the road was finished a competent foreman, with a full gang of hands and a complete set of track-tools and a track or hand car, were on each section of the road; each sec-
616 tion was about six miles long. It is absolutely necessary to have these men and tools on each section to keep the track in order; and I have understood, but do not know of my own knowledge, that neither men or tools are now on every section as heretofore. There was, also, a good supply of fuel on the road, at least enough to operate the road for six months.

D. A. WALKER.

Sworn to and subscribed before me this 5th day of February, 1872.

J. M. JOHNSON,
U. S. Commissioner.

UNITED STATES OF AMERICA,
Southern District of Alabama:

Personally appeared before me, the undersigned, a duly appointed and qualified commissioner of bail and affidavit in and for the southern district of Alabama, John C. Stanton, who, being by me first duly sworn, deposes and says: I have met W. A. C. Jones since the commence-
617 ment of the proceedings in bankruptcy against the Alabama and Chattanooga Railroad Company on several occasions. I met W. A. C. Jones at one time in Chattanooga, Tennessee, for the purpose of trying to arrange his claim, and upon which he had instituted proceedings in bankruptcy against the Alabama and Chattanooga Railroad Company. Mr. Jones stated that he "could not settle with me, even if I were to pay him the whole of the amount of his claim against the company, for he was sure to get his money any way." I replied, "That is strange. How are you to get any more than any other creditor, if the road is put in bankruptcy?" Mr. Jones replied to this: "I am not at liberty to tell you, but I am certain of my money." I then talked further with him in regard to a settlement, and he said that he "could not settle this matter until he had seen Governor Lindsay, as he had an understanding with him." I then asked Mr. Jones several questions, and he said, "I shall not tell you anything about it, but will see Governor Lindsay, and then I can let you know what I will do."

J. C. STANTON.

618 Sworn to and subscribed before me this 20th day of June, A. D. 1872.

HENRY S. SKAATS,
United States Commissioner Southern District of Alabama.

Personally appeared before me, Mr. Wm. L. Cain, as a notary public in & for the county of *Elamut* & State of Alabama, R. B. Kyle, who, after being duly sworn, says on oath that he has been engaged in merchandise in the town of Gadsden for several years, & that at the time the A. & C. R. R. was completed that he was extensively engaged as a merchant in shipping goods & the products of the county over a good portion of said road; that at the time of the seizure of said road by the State of Alabama that there was a sufficient quantity of engines & rolling-stock in good condition to do the business of the country, the passenger & freight trains were run regularly, were run by efficient men, & that persons & property were transported with safety & dispatch; that the road & road-bed was in good condi-
619 tion from Chattanooga to Tuskaloosa, & that after the road passed into the hands of & under the control of the State that the road, engines, rolling-stock were all neglected & abused, & soon became in bad condition for use, in fact for some months there was no trains run from Chattanooga to Attalla, and after that portion of the road passed into other hands, about the first of January last, and goods were being sent as far as Attalla, large quantities of goods & produce were sent to that point and detained for a great while, from the fact that the road & rolling-stock was in such condition that passengers & property could not be sent through to Meridian. For some two or three months past the trains have been run with more success as far as Birmingham. It has come to the knowledge of affiant that the road, road-bed, engines, & rolling-stock from use and abuse has depreciated in value to a considerable extent, & other property along the line has been sold or carried off—in fact the road has become useless to the country as a through line.

He further states that the country through which the road
620 passes has been damaged to an extent that he cannot pretend to compute, and he gives it as his opinion that had the A. & C. R. R. Co. been allowed to continue to run the road under the very efficient management of the officers in charge at the time of the seizure by the State, that a large and remunerative business would have been worked up, and the road to-day would have been a paying road.

R. B. KYLE.

Sworn to and subscribed to before me 15 June, 1872.

WM. L. CAIN, *N. P.*

THE STATE OF ALABAMA,
Etowah County:

I, Wm. L. Cain, notary public in and for said county & State, hereby certify that I have known R. B. Kyle for twenty years. He is a thorough practical business man, of large experience in commercial & railroad matters, & is a man of integrity & veracity, & has s'gn'd and sworn to the above statement before me at my office, in Gadsden, on the 15' June, 1872.

WM. L. CAIN, *N.*

621 The circuit court of the United States for the southern district of Alabama, in equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Ala. & Chatt. Railway Company, complainants,

vs.

THE ALA. & CHATT. RAILROAD COMPANY, Lewis Rice, A. C. Lippett, & Daniel N. Stanton, as trustees for the holders *for* the bonds secured by the second mortgage of the Ala. & Chatt. Railway Company, with others, defendants.

I, Egbert H. Grandin, make oath and say that I am 45 y'rs of age, and a lawyer by profession, & reside in the city of Mobile, Alabama; that on the 8th day of June, A. D. 1871, the Ala. & Chatt. Railroad Company was adjudicated a bankrupt in the district court of the United States for the middle district of Ala., and that
622 thereupon John F. Bailey and myself were appointed by said court custodians of the property belonging to said company, with authority to take immediate possession & control thereof on the Monday next following, being the eleventh or twelfth of the month. I proceeded to Meridian to take possession as such custodians of the road, its rolling-stock, and other property. I there met Robert W. Healy, United States marshal for said middle district, and W. A. C. Jones, the creditor at whose instance the said company had been declared a bankrupt, and his attorney, Col. V. S. Murphey. At Meridian there were four locomotives belonging to said company, two of which were in good order, and two out of repair and in shop, as I understood. There were also two passenger and several box cars. This property was in the possession of a large number of disaffected & turbulent persons, who, as I was informed, had been in the employment of the

623 company. They manifested anger & excitement, & claimed that their wages for work done for the company remained unpaid, & declared their intention to hold this property & to prevent the running of the road until their wages were paid. They made threats of violence, and were quite clamorous. W. A. C. Jones, V. S. Murphey, Marshall Healy, and myself remained at Meridian the greater part of that day endeavoring to pacify these men & get possession of the said rolling-stock. Being informed that many of these men had neither food nor money, about three hundred dollars' worth of flour & bacon were purchased by Col. Murphey, H. Q. Wheeler, & myself, and distributed amongst them. With much effort we succeeded in pacifying these men & obtaining possession of the said rolling stock. We then pro-
624 ceeded on a train consisting of a locomotive and two passenger-cars on our way to Chattanooga. In consequence of the condition of the road, and the danger apprehended from disaffected persons who had recently been in the employment of the company, we travelled quite slowly & cautiously to Eutaw, where we arrived after night and remained until next morning, when we proceeded on our journey. On our way we met several squads of persons who had been laborers on the road, but were then out of employment, many of whom presented a squalid appearance and were clamorous for food & money, and indulged in threats against any persons who should attempt to run this road without paying their wages. While on our way we were informed by telegram that some fifty or sixty armed white men & negroes had left Chattanooga on hand-cars to stop us and
625 prevent us from going to Chatt. We met this tumultuous mob at Rising Farm, near Trenton. They were angry & excited, & many of them armed with deadly weapons. They stopped our train, and several of them immediately got on it and presented their pistols at the head of the engineer and threatened to shoot him if he attempted to proceed with the train. Marshall Healy & myself addressed them & endeavored to pacify them, & at length we succeeded in obtaining their consent for our train to pass on. Upon my invitation they got on our train & proceeded with us, but before we reached Chatt. they stopped us, again manifesting such excitement, & swore we should not proceed any further. We again succeeded in quelling the disorder & went on to Chatt., where we found John C. Stanton, the superintendent of the railroad, & one of the complainants.
626 Marshal Healey served upon him notices of the judicial proceedings under which I was appointed custodian of the road. Mr. Stanton refused to deliver me the property to permit me to take possession of it. While I was there at Chatt. my train was disabled by some disaffected persons and I was compelled to return on another road to Meridian. In two or three days the hands I took to Chatt. with me returned to Meridian with the train I took there, having, as they informed me, removed the train secretly from Chatt. I appointed a superintendent as with authority to run the trains as far as Alta, which was done until Judge Woods annulled the proceedings in bankruptcy, which was understood to terminate my authority, and I immediately wrote to Mr Stanton to take possession of the property which had been in my possession. Much the greater number of
627 the locomotives & rolling-stock was, as I was informed and believe, removed to Chatt. before I went to Meridian, & I was never able to get possession of it. On my said trip to Chatt. I saw a few box-cars on the side-tracks along the road. On that trip I found the road from Meridian to Livingston in tolerable order. The road

from Livingston Station to Tuscaloosa was not in good condition. Many parts of it were out of order. The trestle-work was new & green. The road from Tuscaloosa to Wauhatchie was in fine condition, & a splendid road. I left the road & the rolling-stock which I controlled in better condition than I found it. When I made my trip on the road from Meridian to Chatt. no trains were running and no employees or laborers were at work thereon; but the road & property in Ala. were abandoned, & some of its property had been at-
628 tached at the suits of divers creditors, & everything presented the appearance of demoralization and anarchy. No United States mails were carried upon the road at the time I took possession, or while I was in possession, and no efforts, so far as I know, were made by the officers of Government to have said mails transported over said road while the same was under my control. About two months ago I again went upon said road as attorney for Charles Walsh, esq., with Major Fleming, his agent, to take possession of the same, its rolling-stock, & other property, under and by virtue of his appointment as receiver by the chancery court of Sumter County, Alabama. Major Fleming took possession of the road & of the rolling-stock which he found thereon. We traveled over and examined said road. All
629 that portion of the road which extends from Meridian to Tuscaloosa was then in as good order and condition as when I took possession on the 11' or 12th June, 1871, and the residue of the road was in as splendid condition as before.

J. H. GRANDIN.

Sworn to & subscribed this 20th June, 1872, before me.
(Signe') HENRY S. SKAATS,
United States Commissioner Southern District of Alabama.

Filed June 20th, 1872.

N. W. TRIMBLE,
Clerk.

Circuit court of the United States, in equity, southern district of Alabama, Mobile.

SETH ADAMS, FRANCIS B. LOOMIS, & JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Alabama & Chatt. R. R. Company, complainants,
vs.
THE ALA. & CHATT. R. R. COMPANY,
630 Lewis Rice, A. C. Lippett, and Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Ala. & Chatt. R. R. Company, with others, defendants.

I, Jeshuw H. Busby, a resident of Meridian, in the State of Mississippi, being duly sworn, depose and say: I am thirty-six y'rs of age. I have been engaged on railroads for ten or twelve years, partly as section-master, conductor, & in other capacities; have been employed on the Ala. & Chatt. R. R. for more than two years in the capacity of conductor, & until the completion of the road I was employed in the capacity of conductor of construction-train; since that time I have been usually employed as conductor of a regular train. The track of said railroad between Tuscaloosa & Carthage has never been completed, the whole

of that part of the road being of a temporary nature, especially
631 the trestle-work. There are some temporary trestle between the Warrior & Eutaw. The cut at Eutaw had never been properly completed. That part of the road running through the prairies south of Eutaw, for a distance of about ten miles, has never been completed; it has never been sufficiently ballasted, and the track in wet weather sinks in the mud so as to be almost impassable; it wants proper ditching & sloping of the cuts. I do not know any iron, rolling-stock, or material of any kind having been run or taken away from the southern division of the road or any other part thereof since Col. Gindrat took possession of the road, except that engine No. 11 was leased to the Alabama Central R. R. Company. Just before the company was placed in bankruptcy, J. C. Stanton, superintendent, ordered conductors, engineers, and others, employees, to run all the rolling-stock from the south-
632 ern divisions into Chatttanooga. I, myself, received an order from him to bring all the cars I could bring into Chatt. "loaded or empty." Nearly all of the men employed by Genl. Gindrat in the management of the road were employed on said road under J. C. Stanton's management. I think the *trusles* of the road are in better shape now than they were when Genl. Gindrat took possession of the road, though they are considerably decayed by the weather & from age. Col. Gindrat has had a force constantly employed in keeping up the road—sections forces and constructions trains, there being a good force on each section; from eight to ten men on a section. I think the road & rolling-stock has been taken care of as well by Col. Gindrat as they were by J. C. Stanton, until Col. Gindrat was troubled & interfered with by stripes of men.

(Sign') J. H. BUSBY.

Sworn to subscribed before me, the con. Jehew H. Busby, who is known to me, this the 19th day of June, A. D. 1872.

A. P. EVANS, [SEAL.]

633 *U. S. Commissioner for the Southern District of the State of Mississippi.*

Filed July 20th, 1873.

N. W. TRIMBLE,
Clerk.

United States, in equity, circuit court southern district of Alabama, at Mobile.

SETH ADAMS, FRANCIS B. LOOMIS, & JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Alabama & Chattanooga Railway Company, complainants,

vs.

THE ALA. & CHATT. RAILROAD COMPANY, Lewis Rice, A. C. Lippett, and Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Ala. & Chatt. Railway Company, with others, defendants.

I, William W. Mitchell, a resident citizen of Toomsuba, in the State of Mississippi, being duly sworn, make oath & say: I am thirty-seven years of age, and have been engaged & employed exclusively on

634 railroads for the past four years. I went into the employ of the Alabama & Chatt. Railroad in September, A. D. 1869, section foreman of a seven-miles section in the southern division of the same. In Jan., 1871, I was appointed assistant road-master of the two southern division', which then extended from Meridian, in Miss., to Akron Station, in Alabama, a distance of about seventy-four miles, and I continued to act in that capacity until J. C. Stanton, the superintendant of said r. r., came to operate & abandoned the said road on or about the 8th day of June, 1871. The said road then remained idle & unused for almost two months, when it was taken possession of by J. H. Gindrat, receiver, under the authority of the State of Ala. During the interval no one was in charge of or responsible for the material belong-
635 ing to said road, & much of it was stolen or destroyed. When the receiver went into possession of said r. r. I was appointed, became, and have ever since discharged the duties of road-master of said r. r. My duties as such requires me to go over said road very frequently, and I am familiar with character, description, & construction of said r. r., both from seeing it while in the service of construction & since. When the said receiver took possession of said road the tract on a large part of said road was in very bad condition, & that portion of it from Akron Station to Livingston, a distance of some thirty-six miles, was almost impassable owing to the hasty, imperfect manner in which the work was done. The slopes were not taken out of the cuts, there was no proper drainage, and no sufficient ballasting. Two gravel trains were at once put on said road by the said receiver between Meridian & Attalla, with a
636 large force on each train. These trains continued at work for five months, ballasting the track, clearing out ditches, and filling in temporary trestles. Every section was organized & fully stocked with men at a heavy expense. The gravel-train' alone for the time they were at work cost $12,000, or thereabouts, exclusive of engine expenses. The track of said road is now in much better condition than when the said receiver took possession of said road. Small forces are at work at the worst places, & one month's time with a full section force and ditching train would put the track in first-rate condition. The iron & joint are in good condition. Few of the rails are bent, and none so much as to be materially injured. Six irons have been put in under Gindrat's administration at a cost of about eighteen hundred dollars,
637 besides cost of material. There is no engine & but five cars ditches along the line of said road. Three of them are but slightly damaged, and can be easily replaced on the track. One is hardly injured except the iron-work. The fifth was an old & worn-out car, and not worth repairing when it ran off the track. The running off of these cars was occasioned by some cars of the New Orleans & Texas Railroad, which were attached to the same train, & the tracks of which are peculiarly constructed and not adapted to safe running on the r. r. Said cars ran off the track under circumstances incident to the best-managed railroads, and it was not due to any want of care or diligence on the part of those in charge of the same, and no cars have run off on said r. r. since the transportation of said New Orleans & Texas
638 cars over said road has been discontinued. I am acquainted with Charles J. Whitney, and have not the affidavit in the cause filed and purporting to have been made by him before J. M. Johnson, U. S. com., 18 May, 1872. I am in the habit of running the trains going & coming on said railroad, & have been ever since said receiver went into possession. I never knew or heard of said Whitney passing over said road but once since that time, & I am satisfied he could not have

done so without my knowing or hearing of it. On this one occasion he was in a passenger-car which went over this road rapidly, & he could have had no opportunity of acquainting himself with the condition of said road or its appurtenances. I am well acquainted with the passenger-car No. 11, so mentioned & described in an affidavit in the
639 cause purporting & have been made H. C. Robinson, before Daniel J. Duffy, U. S. com., on the 31st May, 1872. The original tracks of said passenger-coach were not totally wrecked, but were injured, & can be repaired at small expense. Part of the track & cushions of the seats of said coach have not been stolen or carried off. I removed the same & sent them to Meridian for safe-keeping. The stove has not been stolen or carried off. I removed it & put it in another car until said coach could be repaired, where it is now in use & good order. The floor & floor-timbers of said coach have not been broken, *accept* those at the time said coach ran off. A hole was punc'ed in the floor by a piece of timber, & that damage has been repaired. The oil-cloth carpet in said coach has not been cut up & spoiled, or any part thereof.
640 The platform & steps of said coach have not been broken off, nor any of them. The platforms are both still on said coach, and the steps were unscrewed & taken off by me for safe-keeping while said coach was undergoing repair. The lamps of said coach had not been taken *one* or stolen, but are in said coach. The damage of said coach was nearly two thousand dollars. Two hundred dollars will about cover the damage of said coach, & it is now within two days of being fully repaired & for ready use.

(Sign') W. W. MITCHELL.

Sworn to & subscribed before me by the said W. W. Mitchell, who is well known to me, on this the 18th day of June, A. D. 1872.

N. P. EVANS, [SEC.]
United States Commissioner for Southern District of Miss.

Filed June 20th, 1872.

N. W. TRIMBLE,
Clerk.

641 Southern district of Alabama at Mobile. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. STANTON, trustees for the holders of the bonds secured by the first mortgage of the Alabama & Chattanooga Railway Company, complainants,

against

THE ALABAMA & CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippett, and Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Alabama & Chattanooga Railway Company, defendants.

I, Thos. G. Garrett, residing in the city of Montgomery, in the State of Alabama, being first duly sworn, deposeth as follows:

That on the 26th day of December, 1871, I was appointed by John H. Gindrat, receiver of the State of Alabama, and one of the assignees in bankruptcy of the Alabama & Chattanooga Railroad Company, an agent under him of said road, with headqrts. at Chattanooga, Tenn.

642 On the 29th day of Dec., 1871, I reached Chattanooga, and immediately entered on my duties as such agent, since which time I have remained there continuously in such capacity, except when absent on duties connected with my agency. Said absences from Chattannooga, embraced for the month of January, 1872, one week; for the month of February, 1872, six days; for the month of March, one week; for the month of April, three days; for the month of May, one week, and for the month of June, 1872, five days. As such agent, I took possession and control of property in Chattanooga, consisting as follows: The machine-shops, the car-shops, the round-house, the depot-house, two old out-houses with contents, said contents consisting of track-tools, some cast gears, a lot of steel, cement, &c., and in one, a lot of plaster Paris and cement, together with the lumber & lumber-yard, car-wheels, car-castings, a lot of car-framing and all other property embraced in the receipt of said receiver to the chancery court of Hamilton County, and State of
643 Tennessee; which receipt also embraced the lumber and framing for the union passenger-depot, commenced but not completed. In the store-room at depot were train & railroad supplies. Of the property so received by me, there were four engines, three passenger-coaches on the track and one in the shop, (under repairs,) about six freight box-cars, and about thirty flat and coal cars. The personal property so taken possession of by me, not above specified, consisted of track tools, about two hundred thousand feet of lumber, a lot of office supplies, consisting of stationery and blanks, blank-books, a lot of nails and bridge-spikes, a lot of railroad lamps, (white & red,) several civil engineers' instruments, transits and levels; a lot of sheet-iron roofing; some depot hand-trucks; several boxes of picks and pick-handles, a few gallons of oil, a lot of assorted screws, several pairs of platform scales and letter-presses,
644 some telegraph-register papers, a lot of freight-books for railroad agents' use in receiving and forwarding freight, a lot of coach-candles, & some other miscellaneous articles, of not great value, which I cannot now recollect. Of the property above specified the track-tools, some car-wheels, a portion of the lumber and the union passenger-depot had been previously levied upon by local attachments and executions against the Alabama & Chattanooga Railroad Company. Of the lumber so taken possession of by me, there was seized and sold under said attachments and executions all that portion thereof which was intended to be used in the construction of the union passenger-depot, invoiced to be worth the sum of nine thousand dollars or thereabout. There was also seized and sold under said attachments and executions a lot of bolts intended to be used in the construction of the said union passenger-depot, and estimated to be worth about sixty dollars. Under my said agency I took possession of office-furniture belonging to the
645 passenger-depot, and consisting of fifteen desks of different patterns and values, and about five dozen chairs, of different patterns and value. Of this property, after my said possession as aforesaid, an order issued out of the chancery court at Chattanooga in favor of one Thos. I. Carlisle for the seizure of one office-desk, invoiced to be worth one hundred and fifty dollars, and one chair, of the value of seven dollars, and the same was thereunder taken possession of and delivered to him. When I reached Chattanooga and took possession of the aforesaid property I found a very general feeling of dissatisfaction pervading the community against the proceedings under which said Gindrat was appointed receiver and assignee in bankruptcy as aforesaid, the result of the large and general unsecured indebtedness of said Alabama & Chattanooga Railroad Company to persons in and around

Chattanooga. This dissatisfaction, and the causes which gave rise
646 to it, necessitated unusual vigilance on my part in guarding the property so taken possession of by me. Consequently, I employed both a day and night watch for the performance of this duty; but these precautions did not suffice for the perfect protection of the property, and a portion of this property (of the value of about two hundred and fifty dollars) was stolen. It is impossible for me to itemize the property so stolen, as it consisted of various small articles which I cannot now recall. With the exception aforesaid, and the exception hereinafter mentioned, the property so received by me as such agent is still in my possession. There has been neither wastage nor loss nor deterioration except such as is the result of time. The engines, passenger-coaches, and cars are in as good condition now as they were then, and every effort has been made by me since taking possession of the property aforesaid to preserve the same from injury or waste. The condi-
647 tion of the road between Chattanooga and Tuscaloosa is in much better condition now than it was when I became connected with said road as agent as aforesaid. I am not personally acquainted with that portion of the road between Tuscaloosa, Alabama, & Meredian, Missi'ppi, but am informed by reputable persons, and believe the fact to be, that that portion of said road has been greatly improved within the period designated, that is to say, since December, 1871. Trains are now running on the entire route of said road from Meredian, Missi'ppi, to Chattanooga, Tenn., with regularity, and on schedule time. With reference to the sales under attachment and execution, hereinbefore referred to, I state that as agent as aforesaid I exhausted all legal means within my power to prevent the same. For this purpose I filed petitions praying for restraining orders, which were first granted but afterwards revoked, and I personally attended the sale of the lumber
648 which was to be used in the construction of the union passenger-depot, and forbade the sale. Of the property so taken possession of by me, the chancery court of Tennessee, at Chattanooga, on the 3rd day of May, 1872, made an order directing the car-wheels, the engine-tires, the track-tools, the cart-harness, cement, steel, iron, and lumber levied on to be sold under local attachments and execution of creditors of the said Alabama & Chattanooga Railroad Company, to be turned over to and taken possession of by the clerk and master of said chancery court of Hamilton County and State of Tennessee, and the same has been so taken possession of by him.

THOS. G. GARRETT.

Sworn to & subscribed by Thos. G. Garrett, before me, at Montgomery, this 15th June, 1872.

GEO. H. PATRICK,
U. S. Commissioner, Mid. Dist. Alabama.

Filed June 20, 1872.

N. W. TRIMBLE, *Clerk.*

649 Circuit court of the United States, southern district of Alabama, at Mobile.

SETH ADAMS, FRANCIS B. LOOMIS, & JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Ala. & Chattanooga Railway Company, complainants,
vs.
THE ALA. & CHATTANOOGA RAILROAD COMpany, Lewis Rice, A. C. Lippett, and D. N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Ala. & Chattanooga Railway Company, with others, defendants. } In equity.

I, Harley Hornan, a resident citizen of Meredian, in the State of Missi'ppi, being duly sworn, make oath and say that I was the conducter of and in charge of the train drawn by engine No. 1, when the same was thrown from the track, between Eppes and Boligee, about the middle of October, 1871; that the said engine did not run off by or on account of fast running and carelessness, or either, as falsely stated
650 in an affidavit in this cause filed, and purporting to have been made by W. C. Robinson, before Daniel J. Duffy, U. S. commissioner, on the 31st day of May, 1872. The accident was caused by a bull lying on the track near a trestle, and it being at night, he could not be seen in time to stop the train. The accident was one that would be liable to happen on any unfenced road however carefully conducted. The engineer in charge of said engine at the time was D. D. Briggs, who is noted as a sober, careful, and experienced runner. We were not running over fifteen miles an hour when the accident happened.

HARLEY HORNAN.

Sworn to & subscribed before me by the said Harley Hornan, who is well known to me, on this the 18th day of June, A. D. 1872.

W. P. EVANS, [SEAL.]
U. S. Commissioner for Southern District of Mississippi.

Filed June 20th, 1872.

N. W. TRIMBLE, *Clerk.*

651 Southern district of Alabama, at Mobile.

SETH ADAMS, FRANCIS B. LOOMIS, & JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Alabama & Chattanooga Railway Company, complainants,
vs.
THE ALABAMA & CHATTANOOGA RAILROAD COMpany, Lewis Rice, A. C. Lippett, and Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chattanooga Railway Company with others, defendants. } In equity.

I, James H. Hemphill, a resident citizen of the city of Tuscaloosa, in the State of Alabama, being duly sworn, depose and say that I am forty-two years old; I am and have for the past twenty years been a bridge-carpenter, and for the past thirteen years have employed and en-
652 gaged as such on railroads. I went on the Alabama and Chatta-

nooga Railroad as a bridge-carpenter on or about the 1st day of June, 1869. I was placed in charge of the bridge-work on the southern division of the said road extending from Meredian, Miss'ippi, to the Bigbee, and afterwards to Birmingham, a distance of over one hundred and fifty miles; and I have had charge of said southern division from that day to this. When Col. Gindrat took possession of said railroad in August, 1871, my charge was extended to include the bridge-work on the whole of said railroad, and I have ever since remained in charge thereof.

J. C. Stanton, the general superintendant of said railroad formerly, stopped running said railroad on or about the 8th day of June, 1871, and withdrew the larger part of the rolling stock of said road, and all of it, as this deponent is informed and believes, that was at that time
653 accessible, from Missi'ppi & Alabama into the States of Georgie & Tennessee; and the said J. C. Stanton thereforth ceased to operate & abandoned said railroad, and the said railroad remained unused, idle, and abandoned until the said J. H. Gindrat, receiver under the authority of the State of Alabama, took possession of the same on or about the 10 of August following, and during this interval no one was in charge of or responsible for the tools, tents, and other personal property of this said railroad, and the same were liable to be lost, destroyed, or taken away; and, as this deponent is informed and believes, many of the same were lost, destroyed, or taken away; and this defendant states that during said interval no work was done on said railroad and no working parties were engaged or employed to do work on the same. And this deponent says that since he has been employed as aforesaid on said railroad he has been over the whole of it very frequently
654 and has been over some part of it almost every day, and this deponent is familiar with the construction of said railroad from seeing it while it was being built and since; and between Epps Station & Greenpond, on said railroad, a distance of some eighty miles, about one-third of said road was in an incomplete and unfinished condition at the time the said receiver took possession of the same. The cuts on the same were not sloped out; the grades were temporary; the track was laid hurriedly, and the trestle-work was of green-pine poles with the bark on. I consider that as much as one hundred miles of said road is unfinished, and that said road never was in good condition, either as to construction, motive power, or rolling-stock. Ever since Col. Gindrat took possession of said railroad as such receiver I have had under
655 my charge, on an average, a force of twenty-five men, watching, repairing, and renewing the temporary trestles on said road, at an expense of some $700.00 or $800.00 per month. The trestles on said road are now in better condition than they were when Gindrat took possession of said road, as to line and surface, and they have not been up long enough to be unsafe through age. The Warrior & Bigbee bridges are in as good order as they were at that time. The centre plates and the circle track of the Warrior bridge were broken some two months before J. C. Stanton abandoned said road. The draw is in no worse condition now than it was then, and is not materially injured Col. Gindrat, on taking possession of said road, placed a construction force of about one hundred men at work between Eutaw and Boligee and kept the same there for some five months, at an expense of some four thousand dollars per month. This force was engaged not on
656 current repairs but on permanent improvements and betterments. Under Gindrat's administration, permanent improvements have been put on said road to the value of about forty or fifty thousand

dollars in addition to current repairs. It is my opinion, as a railroad-man of long experience and as having had unusually good opportunities of forming a correct opinion in this case from going over and examining said road frequently and from personal knowledge of the condition and management of the same under Stanton's and Gindrat's administration, respectively, of the same, that the said road, as a whole, including its road-bed, track, bridges, rolling-stock, and machinery, with the exception of ordinary wear and tear, is not of less value now than when the said Gindrat took possession of the same, and in several respects it has been greatly improved. For example, the road-bed at many points has been greatly improved; trestles have been renewed; side tracks have been laid
657 down, and the main track, as a general thing, is in much better condition. And this deponent further states that about the first of June, 1871, soon after proceedings in bankruptcy were instituted by one Jones against said railroad in the district court of the United States for the middle district of Alabama, the said J. C. Stanton caused orders to be telegraphed along the line of said road directing conductors, engineers, and other employees to bring the rolling-stock and other material of the road to Chattanooga; and that, in obedience to said orders, all of said material that was accessible, and all of rolling-stock of said road, except some five or six engines and some fifteen or twenty cars, which were detained at Meredian by unpaid employees, were sent to Chattanooga. I saw said trains and material in course of shipment. A large quantity of iron had been piled up at or near Eppes Station
658 and at Eutaw; and I saw three train-loads of this iron shipped and carried off in the direction of Chattanooga in obedience to said orders. This iron was shipped by the engines of the East Tennessee and Georgia Railroad, and those persons in charge of said trains stated at the time that said iron had been sold by said Stanton to said East Tennessee and Georgia Railroad. After the abandonment of said road by said J. C. Stanton as aforesaid, and before said Gindrat went into possession of the same, the employees of said road, whose wages remained unpaid, and many of whom were in a destitute and suffering condition, without sufficient food or clothing, took possession of such of the tents, tools, and other materials of said road as they could lay their hands on, and carried off and disposed of the same. I know of some 300 or 400 tents, and a large quantity of tools, between Tuscaloosa and Boligee alone, which were so taken and disposed of. During this interval,
659 also, the employees and other creditors of said road sued out and levied attachments on the material of said road wherever the same could be found along the line of said road.

By reason of the matters aforesaid, when the said Gindrat took possession of said road there were few or no tents and tools, and little or no iron or other material left on said road; and the said Gindrat was obliged at once to purchase new tools, rope, rope-block, and other material, to enable him to keep up said road. The rolling-stock that came into his possession was entirely insufficient for the efficient running of the road. The unpaid employees of said road, some thousand or fifteen hundred, were unfriendly and inimical to the running of the road, and frequently created disturbance, and sometimes stopped and interfered with the running of the trains, and were constantly incited by persons claiming to be the agents of J. C. Stanton, and who promised said employees payment of their wages whenever the said Stanton
660 should gain possession of said road. In the opinion of this deponent the said Gindrat managed and conducted said road as well

as any one could have done under the difficulties and disadvantages above set forth.

And this deponent states that during the interval between the administration of said Stanton and said Gindrat he, the said deponent, continued in charge and custody of the bridges on said road, and continued to traverse the line of the same, and states the matter above set forth of his personal knowledge.

And this deponent says he has read the affidavit in this cause filed, purporting to have been made by W. C. Robinson before Daniel J. Duffy, U. S. commissioner, on 31st May, 1872, and that the statements therein as to passenger-coach No. 11 are wholly incorrect. The original trucks of said coach were not totally wrecked, and were only slightly damaged, and the backs and cushions of the seats, the
661 stove, floor, and floor-timbers, oil-cloth, carpet, platforms, and steps, and lamps have not, nor any of them, been broken up, stolen, or carried away; but, on the contrary, the furniture of said coach above mentioned was carefully removed by the proper employees of this road, among whom was this deponent, and stored away for safe-keeping while said coach was being repaired, and the same is still kept and preserved in good order and condition.

(Sgnd.) J. H. HEMPHILL.

Sworn to and subscribed before me by the said James H. Hemphill, who is personally known to me, on this the 19th day of June, A. D. 1872.

(Sgnd.) W. P. EVANS,
U. S. Commissioner for the Southern District of the State of Mississippi.

Filed June 20th, 1872.

N. W. TRIMBLE,
Clerk.

662 Circuit court of the United States, southern district Alabama, at Mobile.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Alabama and Chattanooga Railroad Company, complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippett, and Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chattanooga Railway Company, defendants. } In equity.

I, Horace Harding, at present a resident of Greene County, in the State of Alabama, being first duly sworn, depose and say that I am a civil engineer by profession, and have had a railroad experience of about twenty-four years. In the latter part of August last, soon after Col. Gindrat took charge of the Ala. & Chat. Railroad as receiver, I passed over the road from Meridian to Eutaw; having had charge of a portion of the road during its construction, then known as the North-
663 east and Southwest Ala. Railroad, I felt interested in looking at the condition of the track and road bed, and noticed it as closely

at possible from the rear platform of the train. I was forcibly struck with the bad and, in some places, almost impassable condition of the track. In some of the cuts the rails were covered with mud and water. The drainage generally was very deficient, and the greater part of the track I passed over (63 miles) was badly out of line and surface. Knowing well the nature of the soil of which the road-bed was composed, and having learned by experience the impracticability of working in it to advantage during the prevalence of wet weather, I entertained and expressed the opinion at the time that the road could not be operated during the coming winter unless a large force, at a heavy expense, should be promptly and judiciously put to work upon it. Some three months afterwards I again passed over the same portion of said road and was surprised to see to what extent the track had been improved. The cuttings had all been well ditched; several miles of
664 ballasting distributed and placed under the ties; the track well aligned and surfaced, and all needful precaution taken to place it in a suitable condition for the winter's business.

On the 5th of March last I took charge of the road for the assignees, as superintendent. Between the 7th and 10th of March I passed over the road from Meridian to Birmingham in a hand-car, and thence to Chattanooga on a train. I found the track below Birmingham in fair condition for the time of year, and was satisfied that it must have a great amount of work done upon in the preceding fall and winter to have been so well kept up. I estimated at the time that two weeks' work of the section forces would place the track in good running condition—better than the average of southern roads. From Birmingham to Chattanooga the track was very good, so that the train ran smoothly and pleasantly at the rate of 25 or 35 miles an hour, stoppages excluded.

Owing to a strike, followed immediately by legal complications, the road lay idle from the middle of March to May 6th south of Bir-
665 mingham. Since that time trains have been running regularly and safely over the whole road. All the business offering is accommodated. Through and local tariffs are lower than usually prevail in this section. Passengers are carried at 4 cents per mile, the customary rate on other roads being 5 cents per mile. The earnings exceed the expenses; all liabilities are promptly met, and surplus earnings are devoted to the repairs of track, machinery, and rolling-stock.

Nine engines are on the northern division, all in good order except No. 19, which is being thoroughly repaired & overhauled, and will be ready for service in a few days. On the southern division, engines Nos. 5, 9, 13, & 14 are running in good condition; No. 8 is being put in order and No. 1 & 2 are in the shop for repairs. No. 11 is at Selma in good order, and No. 10 is lying near York too badly damaged to be repaired. It is of little value, probably, except as scrap-iron. This engine was damaged in February last by a collision, which occurred
666 through the gross carelessness, or forgetfulness of the conductor, as acknowledged by him in a published statement inserted in the Meridian Mercury. Against such cases no precautions are available.

To the best of my knowledge and belief (and I have heretofore made diligent inquiry in this matter) all the cars are still on the road that were upon it when Col. Gindrat took charge as receiver. Nine freight-cars, wrecked at various times, are lying at Meridian or by the side of the road—except one near York injured by the before-mentioned collision, and one near Carthage, too much dilapidated through age and decay to be worth repairing. All can be placed on the track, when needed, at a cost from 50 to 100 dollars each. The others are generally

in good condition, and such as are not need only slight repairs, incident to ordinary wear and tear. No cars or engines have been wrecked during the past three months. The road has never been in a condition to be styled "first class" in any respect, except as to rails and joint-fastenings; these are good. There is a large amount of temporary
667 trestle-work, requiring constant watching, repairs, and renewals. Temporary grades were resorted to in many places to hasten the opening of the road, which diminish its efficiency and add to the cost and risk of operating it. The rolling-stock is entirely too limited for doing a remunerative business. Section and station houses are wanting on fully one-half of the road, and the sidings are incomplete and altogether insufficient. Many of the excavations were made without side-slopes or ditches. Under these circumstances, and considering the liability of all new roads to slides, unequal settlements of embankments and to damage from freshets, I do not consider the nature or number of the accidents happening after the receiver took charge of the road as being unusual or as indicating inefficient management.

The value of the road I consider to be greater now than when the receiver took charge of it. I estimate that fully $35,000 has been expended by him in repairs and improvements to track, road-bed,
668 and bridges. The depots, shops, turn-tables, and water-tanks are as good now as when they were first put up, ordinary wear and tear excepted. The engines and cars do not appear to have been damaged beyond what would ordinarily have been the case in doing the amount of service they have performed. $12,000 would amply cover the costs of putting them all in good and efficient condition, engine No. 10 excepted.

(Sgnd.) HORACE HARDING.

Sworn to and subscribed before me by the said Horace Harding, who is known to me, on this 19th day of June, 1872.

(Sgnd.) W. P. EVANS, [SEAL.]
U. S. Commissioner for the Southern District of the State of Mississippi.

Filed June 20th, 1872.

(Sgnd.) N. W. TRIMBLE, *Clerk.*

The circuit court of the United States for the southern district of Alabama, at Mobile.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the bonds secured by the mortgage of the Alabama and Chattanooga Railway Company, complainants,

vs.

669 THE ALABAMA AND CHATTANOOGA RAILroad Company, Lewis Rice, A. C. Lippett, and Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chattanooga Railroad Company, with others, defendants.

I, Henry F. Wheeler, a resident citizen of Meridian, in the State of Mississippi, being duly sworn, make oath and say I have been engaged on railroads either as assistant auditor or superintendent for the ten years

last past. During the late war I was assistant auditor of the military railroads at the headquarters of the same at Nashville, Tennessee. I was employed for two years on the St. Louis and Terre Haute Railroad. In October, 1869, I was appointed and became assistant superintendent of the Alabama and Chattanooga Railroad, for the southern division of the same, and discharged the duties of the same until the 3rd
669½ day of June, 1871. I was appointed and became superintendent of said road by J. H. Gindrat when he took possession of the same as receiver, and so continued until the month of March, 1872. I have thus been superintendent of said road both under the administration of J. C. Stanton and the said Gindrat. I have frequently been over and examined the line of said road and was very familiar with the condition of said road generally and in detail, while the same was in course of construction, when the said Stanton abandoned the road, when the said Gindrat took possession of the same, and since. The Alabama and Chattanooga Railroad was as a whole never completed or finished. There were along its line over fourteen thousand feet of temporary trestle, a great many chambered or unstoped cuts, and about nine miles of temporary track diverted from the established survey to avoid cuts and fillings. The track between Tuscaloosa and Boligee for about forty-five miles was in very bad condition for want of stoping, ditching, and ballasting.
669⅔ The road was first class from Chattanooga to Attalla. Out from Attalla to Meridian, a distance of about two hundred and eight miles, the same was of an imperfect and temporary character. From Meridian to York, a distance of about twenty-seven miles, the track was in very bad condition. The rails had most of them been burned, and were kinked, worn out, and useless. This was the condition of said road when J. C. Stanton abandoned the same in the month of June, 1871.

An interregnum then prevailed for some two months, during which no one was in charge of or responsible for the personal property along the line of the road; and the unpaid employees of the road took possession and disposed of a large amount of the same. About the 8th of June, 1871, the said J. C. Stanton caused orders to be telegraphed from Chattanooga to the various employees of said road directing them to run the rolling-stock to Chattanooga; and this was accordingly done, except as
670 to a small part of the same, which was detained at Meridian by employees of the road. I saw the orders myself and know of their execution as aforesaid.

When J. H. Gindrat took possession of said road it was in bad condition—the road-bed was out of repair, the temporary trestles were unsafe, and the road-bed was overgrown with grass. It was very difficult for an engine alone to get along over the road. He had to pay the old employees a part of the money that Stanton owed them before he could get from them the possession of the rolling-stock and material at Meridian. Col. Gindrat had the grass cut of' the R. R. track, sloped some of the cuts, did a great deal of ditching & ballasting, repaired and replaced trestles, put in new swings, built a depot at Tuscaloosa, and three water-tanks at other points, and gave the road a general overhauling. Large bridge-parties were employed on the bridges and trestles under the charge of Henry Hemphill, the bridge-carpenter, and large and well-organized construction forces were kept at work under the charge of Wm. W. Mitchell, the road-master.

671 The said receiver expended a large sum of money on permanent improvements and betterments on said road in addition to ordinary and current repairs; the amount whereof I cannot state with-

out reference to the books of the treasurer, which are not at present accessible to me.

None of the tools, tents, material for equipment, or other property of said road that went into the possession of said receiver were, during his charge of the road, wasted, stolen, carried off, or otherwise improperly dispursed by employees of said road or other persons, within my knowledge, and it was my business to know, and I think I would have known if such had been the case.

The subordinates and employees on said road under the said receiver were almost, without exception, the same subordinates and employees that had been on said road under the administration of said Stanton; that said employees were not drunken nor reckless nor incompe-
672 tent nor inefficient; but that under the administration of the said receiver, as they had been under that of the said Stanton, the said employees were, as a rule, sober, diligent, faithful, and efficient.

I have, as aforesaid, been familiar with the condition of said road during its construction and ever since, and I think my experience as a railroad-man enables me to form a correct opinion of its comparative condition and value at different times. I have no hesitation in saying that at the time my connection with said road ceased, viz, on the 4th of March, 1872, it was in a good deal better condition than it was when the said receiver took possession of the same. It was improved as to sloping, ditching, ballasting, and otherwise, and was worth fully as much money as when said receiver took possession.

I am acquainted with Chas. O. Whitney, who makes an affidavit in this cause, purporting to have been made and signed before J. M. Johnson, U. S. comr., 18 May, 1872. He has never been over the
673 whole line of said road but once since said receivers took possession thereof. I am satisfied that he could not have been over said line without my seeing or hearing of him.

On the occasion when he did go over said road I accompanied him. He was and remained in a passenger-car, which was not the end car of the train; and he had no opportunity on that occasion to become acquainted, and could not have become acquainted with the condition of said road, and he could not have examined, and did not attempt or pretend to examine, into the condition of said road or its appurtenances.

And affiant states that the majority of men placed in charge of said road and its property by the said receivers were not worthless and incompetent, and did not damage the road and its property by the reckless way in which they run the road and pilfered and destroyed its property to the amount of over a million of dollars, as falsely alleged in an affidavit in this cause filed, purporting to have been made
674 by William R. Carlile, before J. M. Johnson, U. S. comr., 20 May, 1872, or to any other amount; and affiant states that the men placed in charge of said road were, as a rule, faithful and efficient, and did not run said road in a reckless way, but ran the same with usual and proper care and precaution, and did not pilfer the property of said road or otherwise damage the same to any amount whatever to the best of affiant's knowledge, information, and belief.

And affiant states that he is acquainted with Seth Hopkins, of Chattanooga, Tennessee, whose affidavit, purporting to have been made before J. M. Johnson, U. S. comr., 18 May, 1872, is filed in this cause. That said Hopkins has not been over the whole line of said road since the said receiver's possession thereof, and has, therefore, had no opportunity of becoming acquainted with the true condition thereof. That said Hopkins was discharged from the employ of said railroad be-

fore J. C. Stanton abandoned the same, and, as affiant was at the
675 time informed and yet believes, on account of drunkenness and worthlessness.

And affiant states that all of the new iron rails which were on and along the line of said road at the time said receivers took possession is still along or in use on said road.

And that of the old iron then belonging to said road, some four or five thousand dollars' worth has been sold by the receiver and the proceeds applied to the use of said road, and the balance is still on the line of said road, and that the surplus fish-bar fastenings with nuts and bolts, formerly belonging to said road, were all sold to a Mr. Lowe of Chattanooga, by J. C. Stanton during his administration of said road, and the said receiver was never in possession of the same or any of them, and that said receiver obtained possession of very few tents belonging to said road, and their few were old, well worn, and of but little value.

And this affiant further states that said road was never in
676 first-class condition as to its whole length nor for the greater part of it, and he says it is true that for a short time before said J. C. Stanton abandoned said road, that one train ran on the same at the rate of 25 or 30 miles per hour, but not with perfect safety. And affiant states that in the then condition of said road, that was a very unsafe rate at which to run, and that the usual and ordinary number of accidents occurred on said road during the administration of said Stanton. And affiant states that during said Gindrat's administration, trains could have been run on said road at an equal rate of speed, with equal safety, and that during the possession of said road by said receiver the tents and tools were not stolen or carried away; and that the rolling-stock of said road was not run off the track by collision occurring under the charge of drunken or incompetent men who had been previously discharged, and said rolling-stock was not left lying in this ditch alongside of the road without any effort being made to get them
677 up and repair them, and that cars were not wilfully and maliciously destroyed by said parties, and that said road was not run by a drunken mob previously discharged for drunkenness and incapacity, and that men were not in charge of trains who never had any experience before they took forcible possession, as falsely alleged in an affidavit in this cause filed purporting to have been made by James P. Stanton before J. M. Johnson, U. S. com'r, on the 18th day of May, 1872; and affiant states that during said receiver's possession of said road the trains and other property were in charge of competent men, and that the trains on the same were run by sober, competent, and efficient employees under the direction and control of said receiver, and that the property of the same was cared for and preserved with the ordinary care and diligence, and that in case of the stock run off the track the same was reclaimed and repaired with the ordinary promptness and care, and that
678 the general management and conduct of said road under said receiver was as careful, efficient, and successful as could reasonably be expected under the circumstances then existing.

And affiant states that the coal-mine, with its appurtenances, in the said affidavit mentioned, was sold and disposed of by the said J. C. Stanton during his administration of said road; that said Stanton stated to and informed affiant that he had so disposed of the same; that if the said coal-mine was ever stripped of its equipments and appurtenances the said receivers and his employees had nothing to do therewith; that said receiver never took possession of the same nor any part thereof, and had nothing to do with the same in any manner.

Affiant is has been well acquainted with the character, kind, and quantity of rolling-stock in use on said road under the administration of said Stanton and said Gindrat. The original cost of the rolling-
679 stock of said road *when it* was between five and six hundred thousand dollars. The road never owned any Pulman sleeping-cars, and none came into the possession of the receiver. There were at one time two running on said road, but they were not owned by it.

The engines and other rolling-stock of said road, making allowance for ordinary wear and tear, with some exceptions, are in as good condition now as when they went into the possession of said receiver, and with an inconsiderable expenditure in repairs can be made of the same value now as then.

HENRY F. WHEELER.

Sworn to and subscribed by Henry F. Wheeler, by me known, on this the 19th day of June, 1872.

M. P. EVANS, [SEAL.]
U. S. Commissioner for the Southern District of Mississippi.

Filed June 20, 1872.

N. W. TRIMBLE, *Clerk.*

680 *Affidavit of V. S. Murphy for respondents.*

Circuit court of the United States for the southern district of Alabama.

SETH ADAMS, FRANCIS B. LOOMIS, AND John C. Stanton, trustees, &c., complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILroad Company and Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, as trustees, &c., and others, defendants.
} In equity.

I, Virgil S. Murphy, of Montgomery, Alabama, maketh oath and say: I am thirty-four years of age; am a lawyer by profession, and reside at Montgomery, Alabama. On or about the 12th day of June, 1871, I was at Meridian, in the State of Mississippi, with one E. H. Grandin,
681 of Mobile, Alabama, and R. W. Healy, the marshal of the United States for this district. The business of the said marshal was to take possession of the Alabama and Chattanooga Railroad, under the orders of the district court of the United States for the middle district of Alabama, and to turn the same over to the custodian thereof, appointed by said court, of whom the said E. H. Grandin was one and John F. Bailey, of Montgomery, Alabama, was the other. I went along as adviser and counsel for the said custodian. Upon arriving at Meridian, we found that terminus of the said railroad and all the property of the company at that place, including engin's, cars, depots, warehouses, and shops, and materials of all kinds on hand, in the possession and under the control of a mob consisting of
682 disaffected employees of said company, who were clamorous for money alleged to be due them by the railroad company, and who would not permit the road to be used until they were paid, and who had disabled the engines in their possession to prevent their use until they were paid. We found that the railroad was entirely unused and abandoned as a means of travel and communication. After considerable effort and some delay we obtained from the possession of

the said mob an engine and cars, and undertook to go from Meridian, along the line of said road, to Chattanooga, in the State of Tennessee, which we accomplished in about four days after leaving. We
683 found the track of road torn up soon after leaving Meridian, and our train was delayed in consequence. Occasionally we were stopped along the road by other employees who were clamorous for food and money. We found the road-bed in very good condition, so far as I could tell, with the exception above mentioned, until after we left Eaton, between which place and Tuscaloosa we encountered a section of twenty-eight or thirty miles in most miserable condition in every respect; in fact, this section seemed to be only a temporary road, as it ran up and down hill and around them as an ordinary dirt-road; the track was submerged in many places; the trestles and cross-ties were mere poles which would last but a short while and which
684 rendered the use of the road dangerous in the highest degree when new. At other points on the railroad after passing this temporary track we found unfinished trestles, or rather temporary trestles, which had never been removed, and which were in a very unsafe and dangerous condition. There were no hands at work upon the road at any point, and throughout the whole length of the line there was a feeling of such indignation against the company or its managers on the part of persons who had been connected with the road, as laborers or employees, as rendered the use of the road, if otherwise it had been in good condition, unsafe, if not absolutely impossible. We
685 found the shops and offices and depots and other buildings along the whole line of the road either deserted and closed or in the possession of persons inimical to the road. Near Tuscaloosa we encountered a large number of Chinese, several hundred, who had ceased working for the company on account of not being paid, and who were as clamorous and threatening as others, and near or at Trenton, in Georgia, we were met by a gang of about seventy-five persons, who were armed and who captured the train we were on, and said that the road should not be used, and that no United States mail should pass over the road until they were paid. These persons had large hand-cars in their pos-
686 session, on which they seemed to have come from Chattanooga for the purpose of meeting us. We were advised by telegram of their approach from there, and they finally having permitted us to pass over the road, upon finding that we had nothing to do with the late management of the road, went back to Chattanooga with us. Upon arriving at Chattanooga we found the property of the road at that point had been seized under various attachments against the road in the State courts, and all the property of the road at that end of the line was in the possession of the sheriff, so far as I could learn. We met no train, other than the hand-cars above mentioned, during the trip
687 from Meridian to Chattanooga, and the road was at that time unused and incapable of being used without great repairs, and without a pacification of the feeling of hostility against the company or its late managers growing out of the non-payment of laborers and employees.

And further than this deponent saith not.

(S'g'd) V. S. MURPHY.

Sworn to and subscribed before me by the said Virgil S. Murphy, at Montgomery, Alabama, this 3rd July, A. D. 1872.

(S'g'd) J. F. DRESSER,
U. S. Commr. Mid. Dist. of Ala.

Filed July 4th, 1872.

N. W. TRIMBLE, *Clerk.*

688 *Affidavit of J. McKee Gould.*

Circuit court of the United States for the southern district of Alabama.
In equity.

SETH ADAMS, FRANCIS B. LOOMIS, and JOHN C. STANTON, trustees, &c., complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company and Lewis Rice, A. C. Lippett, and Daniel N. Stanton, as trustees, &c., and others, defendants.

I, J. McKee Gould, a resident citizen of the county of Greene, in the State of Alabama, being duly sworn, depose and say: I am 41 years of age. I had five or six years' experience on railroads before the late war, on the Mobile and Ohio Railroad and on the Northeast and Southwest (now the Alabama and Chattanooga) Railroad, respectively; for three and a half years of the time as civil engineer, and for two years
689 as a contractor. My official connection with the Alabama and Chattanooga Railroad began on the 9th of August, 1871; from that time to 1st March, 1872, I was assistant superintendent and engineer in charge of repairs on said road, and from that time till now I have been and am now assistant superintendent in charge of and occupied in the running department. From the close of the war up to my official connection with the road I lived immediately on the line of the road, and was familiar with its character, condition, and appurtenances during its construction and afterwards. I was especially familiar with that part of the road between Livingston and Tuscaloosa—a distance of some 61 miles—during its construction and the laying of the track. I accompanied Commodore E. Farrand and Capt. Reuben T. Thom, commissioners of the State of Alabama on the examination of railroads, at the time they examined the same, shortly after Col. John H. Gindrat, as receiver, took possession of it; on this occasion we went over the road in a hand-car and made a careful and minute inspection of it. I have since then been over the road or some part of it almost every
690 day, and am familiar with the details of its present and past condition.

The said railroad as a whole was never what could be termed finished. A large part of the southern division was of imperfect and temporary construction. Above Tuscaloosa there were some nine miles of temporary track diverging from the adopted line of survey to avoid cutting and filling. Between Eutaw and Tuscaloosa there was by actual survey 157 85 feet of temporary trestle constructed of green sap-pine with the bark on. Between Tuscaloosa and Livingston, a distance of about sixty-one miles, about two-thirds of the road-bed was in an unfinished condition; in that the slopes were not taken out, the cuts were not ditched, the embankments were not of the proper width, and the track was not surfaced or ballasted. For some thirteen miles from York Station northward the cross-ties were of green swamp-pine, which is inferior even to hill-pine. Between Meridian and York, a distance of 27 miles, the rails, with the exception of about three miles, were kinked from having been burned during the war, and were old, worn out,
691 and useless. The cross-ties were, many of them, rotten and washed up; the culverts were mainly of wood, and were rotting and falling in, and the bridges and trestle were old and kept practicable only by constant repair.

When J. C. Stanton abandoned the road, about 1st of June, 1871, the tents of the working parties were many of them left standing, and the tools, wheelbarrows, and other materials were scattered uncared for along the line of the road. These mostly disappeared during the interval between Stanton's and Gindrat's administration. They were carried off and disposed by unpaid employees and others.

When the said receiver took possession of the road it was in the condition above described, except that it was worn from two months' neglect, decay, and want of repairs. The road was also overgrown with weeds and grass, which had to be removed at considerable expense before trains could pass. A great deal of other work had also to be done on said road before it was practicable for trains. The rolling-stock and material not previously withdrawn by Stanton from the road were in possession of the unpaid employees of Stanton, who refused to
692 deliver the same to the receiver until he paid them some $10,000 of the back dues. These employees were also disaffected and demoralized; many of them by threats of discharge and promises of promotion when Stanton should regain possession of the road, made by persons purporting to be emissaries or agents of Stanton; one Kellogg, of Tuscaloosa, demoralized the employees there and along the line of the road, in that way, to a considerable extent.

Under the administration of said receiver a great deal of work was done and expense incurrred in the construction and permanent improvements of the road in addition to current repairs. The temporary trestling was braced, repaired, or renewed, the slopes were cut out, the cuts ditched and ballasted, portions of temporary trestle were filled in, large and efficient bridge and construction forces were put and kept at work on the road under direction of the bridge and road masters respectively; a new depot was built at Tuscaloosa, and water-tanks respectively at Birmingham, Eppes Station, and Carthage; and cotton-platform at Hull's, Carthage, Stewart, Akron, and Boligee Stations, and seven new side-tracks were constructed.

693 On account of the matters and things above-stated, the condition of the road is much better than when the receiver took possession. Robt. Crarath, the chief engineer of the road under Stanton's administration, after passing over and examining the road, stated and admitted to me that the road is greatly improved. The rolling-stock, except ordinary wear and tear, is in fully as good condition now as when the receiver took possession of the road.

I have read the affidavits of Chas. O. Whitney, Geo. M. Whitney, and B. F. Gardner and others in this cause filed and purporting to have been made 18 May, 1872. It is not true that during said receivership the engines and other rolling-stock of the road were ditched and allowed to remain so without care or attempt at reclamation as falsely alleged in said affidavits. The usual number of accidents and the usual amount only occurred in the running of said road; and I have been in position to know and do know that whenever rolling-stock has been injured by collision, run off or otherwise, and was susceptible of repair, it has in every instance been looked after by the proper officials and re-
694 stored to condition and use with due care and diligence. And I have read the affidavits of A. H. Green and James P. Stanton in this cause filed and purporting to have been made on the 18th May, 1872, and of Seth Hopkins, of same date, and of Geo. S. Duncan purporting to have been made on the 20 May, 1872; and of W. H. Milner and F. Parish and Jas. R. Slayton, made 18 May, 1872; and of W. R. Carlisle, made 20 May, 1872, and of Sid. B. Smith, made 31 May, 1872, and

of Geo. S. Duncan and W. H. Millner, made 1st June, 1872, and others filed in this cause.

It is not true that during said receivership, supplies, material, and other property of the road, or any of them, were stolen, destroyed, carried off, or were otherwise improperly disposed of, as is falsely alleged in said affidavits.

I travelled over the road, or some portions of it, almost every day, and know the above allegations to be false. All of the supplies and materials of said road which came into the possession of said receiver were properly guarded and preserved, and have been and are being used for the legitimate purpose of the road, and not otherwise.

695 I know the said Charles O. Whitney, and know that he has not been over the entire line of the road but once since the receiver took possession. On that occasion he came in a passenger-car and had no means of acquainting himself with the condition of the road or its appurtenances, and further know that he was too drunk to have informed himself about the matters testified to by him in his said affidavit.

I also know the said Geo. S. Duncan. He has never been over the line of said road but once since the receiver took possession, and then he came seeking a situation on the road, which he failed to obtain. On that occasion he came in a passsenger-car, in company with me, and I know that he had no opportunities of becoming acquainted with the condition of the road and its affairs.

I also know the said James R. Slayton and the said Wm. R. Carlisle and the said Seth Hopkins, and know that they have not, nor any of them, passed over the line of the road since the receiver took possession. I have been on the road daily and have known who passed over it, and am satisfied that they could not have done so without my knowing it.

696 It is not true that during said receivership the road was in charge of or was managed by dissipated, reckless, or incompetent men, or that the trains were run by drunken engineers, firemen, and brakemen, or that the employees on the road were drunken or worthless or incompetent, as is falsely alleged in said affidavits. The employees of the road during the receivership and now are, with few exceptions, the same as under the Stanton administration. I am acquainted with them and their character, and I know that as a rule they are sober and competent, faithful and efficient, and not drunken or worthless or reckless or incompetent.

It is not true that 540 tons or any other amount of new iron rails left on the road were removed or destroyed or otherwise improperly disposed of while in the custody or possession of said receiver, as is falsely alleged in said affidavit of said Geo. S. Duncan and Wm. H. Millner. All of the new iron rails which were on or along the line of the road when the receiver obtained possession is still along said line or has been used on the track in placing new wings or prolonging old ones.

697 No new iron whatever has been taken away or otherwise improperly disposed by the said receiver or his employees or other persons during his possession. I am informed and believe that J. C. Stanton caused a quantity of new iron to be removed from the road and run up to Chattanooga about the time he abandoned the road, in June, 1871; and that afterwards and before said receiver came into possession of the road, one John J. Currance, an unpaid employee of J. C. Stanton, under color of legal process obtained possession of some two car-loads of new iron at York Station and shipped the same to the care

of Noble & Bro. of Rome, Georgia. I am satisfied that after the receiver took possession of the road no iron could have been removed thence without my knowledge. And I do not know and never heard of any new iron being so removed. The only iron ever shipped and removed from said road during the said receivership was a lot of old iron rails sold by the then superintendant, H. F. Wheeler, to the Vicksburg and Meridian Railroad, and to Messrs. Cobby & Co. of St. Louis. This iron consisted of old iron rails surplus upon the replacement of
698 the track between Meridian and York, and was old, kinked from having been burned, worn out and useless except for rerolling. The proceeds of this old iron were used in the payment of the employees of the road.

It is not true that fish-bar fastenings with nuts and bolts for seven miles, or any other quantity, were removed, destroyed, or otherwise improperly disposed of while in the custody and possession of said receiver, as in the affidavits of the said Geo. S. Duncan and Wm. H. Millner is falsely alleged.

When the said J. C. Stanton completed the laying of the track on said road, he caused the surplus fish-bars, fastenings, nuts, and bolts, &c., or the greater part of them, to be gathered up and sent to Chattanooga before he abandoned the road and before the said receiver took possession. An inconsiderable quantity only of said fastenings, nuts, & bolts ever came into the possession of the receiver, of which a lot remains at Eppes Station unused because they do not fit any of the rails on the road, and none of them have been stolen or carried away or wrongfully disposed of.

The coal-mines and appurtenances mentioned in the said affi-
699 davits of the said J. P. Stanton, B. F. Gardner, and Wm. H. Millner, were sold and disposed of during the Stanton administration, and the said receiver never had nor attempted to take possession of the same or any part thereof.

It is not true that at the time of the seizure of said road by the State of Alabama there was stored in buildings at Black Warrior River miscellaneous property worth at least ten thousand dollars belonging to said road, which has been run off, sold, and stolen by the parties in charge of the road, as is falsely alleged in the said affidavit of said Geo. S. Duncan, purporting to have been made on 20 May, 1872. At the time of said seizure there was no property of any character or value whatever stored at said place except some brick, and there were not some two hundred thousand brick, worth at least thirty-five hundred dollars, stored at said place, as is falsely alleged in said affidavit. There were but about six thousand of said brick, as ascertained by an examination and estimate made by me, in connection with two practical bricklayers called in for the purpose, and these bricks turned out to be in
700 the custody of the sheriff under an attachment levied on the same under the Stanton administration, and none of the same were ever run off, sold, or stolen by the parties in charge of the road, or others. I know that the allegations above referred to is false because at the time of said seizure I was present at the place mentioned and examined the premises to ascertain what was there, and know what was and what was not there.

It is not true that the engine D. N. Stanton has been stolen or disposed of by parties unknown, as is falsely alleged in the said affidavit of the said Sid. B. Smith. The said engine is now in the possession of the Alabama Central Railroad Company, and went into the possession of the same in this wise: In August, 1871, the said receiver leased to

the Alabama Central R. R. Co. the right to run its trains from the point of intersection at York to Meridian for one thousand dollars per month. At that time the receiver needed ten thousand dollars to pay the employees of the Ala. & Chattanooga R. R., or arrear of wages due them by the Stanton administration, and could not get possession of the rolling-stock and material of the road without such payment. The
701 receiver according' obtained from the said Alabama Central R. R. an advance of $10,000.00 on said lease for the purpose aforesaid, and deposited with the same the said engine D. N. Stanton as collateral security for the performance of the contract of lease; and the said engine is now in the possession of the said Ala. Central R. R. Co. in good condition and repair, and subject to reclamation according to the terms of the said contract. I have said contract in my possession, and am personally cognizant of the matters and things above stated.

The Alabama and Chattanooga Railroad is now in the possession of, and is managed and controlled under the authority of, the State of Alabama. It is well and efficiently officered, manned, equipped, organized, and administered. The road-bed is in much better condition than when the State took charge of it, and the bridges are in as good and the trestles in better condition. Adequate bridge and construction forces are kept constantly employed on it to maintain its condition. The rolling-stock is kept up and in repair by well appointed and equipped machine-shops at Meridian, Miss., and Chattanooga, Tennessee.
702 Daily passenger and freight trains, carrying the express and the United States mail, run over the whole line of the road and make good time and regular connections. The present capacity of the road is equal to all the passenger and freight business offering, and more passengers are carried at the rate of 4c. per mile, which is lower than the rate of any connecting road, and freights are shipped and delivered regularly and punctually and at lower rates than any of the roads connecting at the southern terminus; and the road, even at this dull season of the year, is earning more than its running expenses, and the surplus is being applied to the improvements of the road.

J. McKEE GOULD.

Sworn to and subscribed before me by the said J. McKee Gould, who is personally known to me, on this the 28th day of June, A. D. 1872.

M. P. EVANS, [SEAL.]

U. S. Commissioner for Southern District of the State of Mississippi.

Filed July 4th, 187?.

N. W. TRIMBLE, *Clerk.*

703 *Affidavit of James H. Simons.*

Circuit court of the United States for the southern district of Alabama.

In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees, &c., complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, and Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, as trustees, &c., and others, defendants.

I, James H. Simons, now resident in Lauderdale County, State of Mississippi, being duly sworn, make oath and say that I am 48 years of age, and have been in the employ of and engaged on the Alabama and

Chattanooga Railroad for about three years. I am now, was in August and September, 1871, and ever since have been, section-master, in charge of the first section of said road, which begins at Meridian and extends toward York Station. I know all about the old iron rails sold about the month of September, 1871, to the Vicksburg and Meridian Rail-
704 road, and to Messrs. Corby & Co., of St. Louis, Missouri, by Maj. H. F. Wheeler, then the superintendent of the Alabama and Chattanooga Railroad, under Col. John H. Gindrat, State receiver. I assisted, with my section-force, in loading said iron on the cars at the time it was sold. There were ten car-loads of it. It consisted of old iron rails, which had been replaced on the line between Meridian and York by new rails, and which were warped and crooked from having been burned by Sherman during the war, and for the most part were worn out and useless except for the purpose of being rerolled. I am familiar with the character of this iron, because I had helped to replace it with new iron; had handled and knew all about it. There is a considerable quantity of the same kind of old iron rails now along the line of the road between Meridian and York. There was no new iron included in the lot of iron above mentioned.

No new iron was ever removed from the line of the road or carried off, or was otherwise wrongfully disposed of during the possession of the road by the State receiver, within my knowledge. I was, as
705 before stated, section-master, in charge of the first section, during all of that time. The house in which I lived was immediately on the line of the road, on the right of way, and I saw and knew of the trains as they passed. I was on the line of the road every day, and no iron could have been shipped off or removed without my knowledge.

At the time J. C. Stanton abandoned the road, and withdrew the rolling-stock and material along its line to Chattanooga, in June, 1871, there was a considerable quantity of fish-bars, bolts, and nuts on my section and in my charge. The said Stanton caused all these to be removed and carried off along with the other property on the road, and of that a lot still remains at Eppes Station unused because they do not fit any of the rails on the road.

J. H. SIMONS.

Sworn to and subscribed before me on this the 29th day of June, A. D. 1872, by the said James H. Simons, who is personally known to me.

M. P. EVANS, [SEAL.]
U. S. Commissioner for the Southern District of the State of Mississippi.

Filed July 4th, 1872.

N. W. TRIMBLE,
Clerk, &c.

706 Circuit court of the United States for the southern district of Alabama. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees, &c., complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company and Lewis Rice, A. C. Lippitt, Daniel N. Stanton, as trustees, &c., and others, defendants.

H. F. WHEELER.

I, H. F. Wheeler, a resident citizen of Meridian, in Lauderdale County, State of Mississippi, being duly sworn, make oath and say that I was

superintendant of the Alabama and Chattanooga Railroad from the time Col. John H. Gindrat, as receiver, under authority of the State of Alabama, took possession of the same, in August, 1871, up to March, 1872; that I am not now connected with said road in any capacity, and am in no wise interested in its affairs or concerns; that about the month of September, 1871, I, as such superintendant, sold to the Vicksburg
707 and Meridian Railroad Company and to Messrs. Corby & Co., of St. Louis, Mo., a lot of old iron rails, amounting to something over 100 tons. The said iron rails consisted exclusively of old rails removed from the track of said road between Meridian, Miss., and York, Ala., at the time the same were replaced by new ones; many of said old rails had been taken out of the track and piled up along the track long before the Stanton adminstration of the road. Most of them were kinked and crooked from having been burned during the war, and all of them were worn out and useless except for rerolling. I do not now remember the exact proportion of said iron sold by me respectively to the said Vicksburg and Meridian Railroad and the said Corby & Co., of St. Louis. The whole transaction was conducted with Col. E. F. , the general superintendant of the said Vicksburg and Meridian Railroad. The proceeds of said sale amounted to about forty-three hundred dollars, and were paid into the hands of the treasurer of the Alabama and Chattanooga Railroad under said receivership, and applied to the payment of employees and like purposes on said road. There was no new
708 iron whatever in said lot of iron sold by me as aforesaid. In fact at the time said receiver took possession of said road there were no new iron rails along the line between Meridian and York except a small lot at Cuba Station, which is still there. No new iron rails whatever belonging to said road or on its line were ever sold, carried off, removed, or otherwise improperly disposed of while I was superintendant of the same under the receiver as aforesaid.

H. F. WHEELER.

Sworn to and subscribed before me by the said H. F. Wheeler, who is personally known to me, on this the 29th day of June, A. D. 1872.

M. P. EVANS, [SEAL.]
U. S. Commissioner for the Southern District of Mississippi.

Filed July 4th, 1872.

N. W. TRIMBLE, *Clerk.*

709 Circuit court of the United States for the southern district of Alabama. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. STANTON, trustees, &c., complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippett, and Daniel N. Stanton, as trustees, &c., and others, defendants.

A. G. HORN.

I, A. G. Horn, a resident citizen of Meridian, in the county of Lauderdale and State of Mississippi, being duly sworn, make oath and say that I am 55 years old, and am, and for the five years last past have been, the editor and proprietor of the Meridian Mercury, a newspaper

published at Meridian, Mississippi. I have been over the Alabama and Chattanooga Railroad frequently, from Meridian to Tuscaloosa, and once through to Chattanooga. I accompanied Col. John H. Gindrat over the road when he was first taking possession of it as receiver for the State of Alabama.

710 When Col. Gindrat came over to Meridian to take possession of the road, this end of it and all the rolling-stock and machinery they could lay hands on were in the possession of Stanton's employees at this end of the line, who were on a strike for the unpaid wages due them by the Stantons company. I witnessed the troubles and difficulties he encumbered in making any terms with the employees to obtain possession of the property. The men had long arrearages due them, and were greatly exasperated. They seemed to regard any party who should succeed Stanton in the possession of the road as liable to them for their arrearages. At any rate there was, for a time, a firm resolve among them, or many of them, that nobody should run the road without first paying the arrearages due them from the Stanton company. I know these things, because I mingled much with the strikers; held consultations with them, and made talks to them in the effort to get them to come to terms with the receiver, and to allow the trains to rerun again. I know that his difficulties in this respect were of a serious character.

711 When I went over the road with Col. Gindrat, on the occasion of his taking possession as receiver, we were carried on a train which was in the possession of a body of Stanton's dissatisfied employees, who assumed and exercised entire control over it, except that they moved him (Gindrat) from point to point as he wished. They at the time expressed their determination to hold this and other property against all claimants until their wages should be paid.

On that occasion, and on others, I noticed the unfinished condition of the road from, say, the Warrior Bridge to Tuscaloosa, a distance of some miles. There were many trestles made of poles obtained from the woods with the bark on, and set up on end, and braced only with other poles, some of them fearfully slender for such work. The road-bed was also unfinished in many places. There were cuts but barely wide enough for a train of cars to pass through. In many places the road-bed was imperfectly ditched, and in others not ditched at all. Between the Bigbee and Warrior Rivers there was a reach of twenty miles, perhaps,

712 through slough and soft prairie lands, portions of which were imperfectly ditched and all of it wholly unballasted, so that in wet weather the track went down under the mud out of sight. The track on that portion of the road was in that unfinished and imperfect condition when Col. Gindrat took possession. I remember to have heard the remark frequently made that if the receiver did not soon get rid of the Stanton strikers and get possession in time to repair that portion of the road, it would be impassable in the winter, and this seemed to me from what I saw a very just remark. I did not consider the portions of the road which I have above specially mentioned as finished. It appeared to be a hasty, temporary job, to be finished afterwards, hastily put up to get trains through. I have known Col. H. Harding, the present superintendent of the Alabama and Chattanooga Railroad, more than twenty years as a railroad man. I know him to be a man of character and ability, and believe him to be an educated and accom-

713 plished civil engineer, and a very competent man for his present position. He is a sober man and strictly attentive to business. I see his trains coming and going from this point (Meridian) with as

much regularity as the trains of any of the roads that centre here. As a public journalist it comes within my province to know, and I do know, what is the public sentiment and opinion as to the management of the road; and I am able to state that the management of the same is giving general public satisfaction. I have also seen paragraphs to that tenor and effect in newspapers published along the line of the road.

A. G. HORN.

Sworn to and subscribed before me by the said A. G. Horn, who is personally known to me, on this the 29th day of June, A. D. 1872.

M. P. EVANS, [SEAL.]
U. S. Commissioner for Southern District of the State of Mississippi.

Filed July 4th, 1872.

N. W. TRIMBLE,
Clerk.

714 *Affidavit of L. J. Wagner.*

Circuit court of the United States for the southern district of Alabama.
In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. STANTON, trustees, &c., complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, and Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, as trustees, and others, defendants.

I, Louis J. Wagner, a resident citizen of Meridian, in Lauderdale County, State of Mississippi, being duly sworn, make oath and say that I am thirty-three years of age, and for the nine years last past have been employed on railroad. I was station-agent on the Cleveland, Zanesville and and Cincinnati Railroad for two years, and was employed in the transportation department of the Nashville and Chattanooga, Nashville and Northwestern, and Nashville and Decatur Railroads for two and a half years, and in the same departments on the Louisville and Nashville Railroad for two years. I have been in the employ of
715 the Alabama and Chattanooga Railroad under the administration of J. C. Stanton and subsequently under that of John H. Gindrat, receiver appointed by the State of Alabama, for two years, first as head clerk in charge of the general superintendent's office, and afterwards, and from the time said receiver took possession of said road until now, as master of transportation. I have passed over and examined said road very frequently, and am, and for the two years last past have been, familiar with the character and condition of said road and its rolling-stock and material, and with its management and administration. The said road was never finished or completed by said J. C. Stanton in any proper sense of those terms, a large part of the same from Attala to Meridian being in a temporary and imperfect condition. Above Tuscaloosa there were about nine miles of temporary track diverging from the established survey to avoid cutting and filling. Between Eutaw and Tuscaloosa there were some fifteen thousand feet
716 of temporary trestle made with green sap pine with the bark on. Between Tuscaloosa and Livingston, a distance of about sixty-one miles, about two-thirds of the road-bed was in an unfinished condition. The slopes were not taken out; the cuts not ditched, the em-

bankments were not of proper width, and the track was not properly surfaced or ballasted; for some thirteen miles northward beyond York Station the cross-ties were of green sap pine. Between Meridian and York, a distance of 27 miles, the rails had been burned, with the exception of about three miles, and were crooked, worn out, and almost useless. The cross-ties were many of them rotten and washed up; the culverts were mainly of wood and were rotting and falling in, and the bridges and trestles were old, and kept practicable only by constant repairs. For the brief time under said Stanton's administration that trains ran through on said road, the schedule was arranged at from 25 to 30 miles per hour, but the road was not in condition to make that time with safety, and connections were not made more than half the
717 time on account of the condition of the road as above set forth. The same speed could now be made on the road with equal safety. At the time when said Stanton withdrew his rolling-stock from and abandoned the road, early in June, 1871, there had been no regular payment of the employees since June, 1870. The last pay-day had been in June, 1870, and the employees, with the exception of small advances of money and provisions, were in arrear on their wages for one year. During the interval of about two months between Stanton's abandonment of the road as aforesaid and the possession of said receiver, the road was idle and unoccupied. An occasional train ran part of the way on the northern division, but none came through.

The property and material of said road was left along the line of the road without care or protection, and fell into the hands of unpaid employees and others, who carried off and disposed of a great deal of the same.

When John H. Gindrat as such receiver took possession of
718 said road, about the 1st of August, 1871, the same was in very bad condition in the particulars above mentioned, with the addition of being much worn on account of two months' disuse, neglect, and absence of repairs. The rolling-stock of which he at that time took possession was inadequate for the efficient running of the road. The tools, material, and property for keeping up the road which had not been carried off by Stanton before he abandoned the road, had during the interval been removed and disposed of as aforesaid by employees and others; and the employees, with a year's wages due them, were on a strike and refused to allow the road to be run until they were paid. Col. Gindrat advanced and paid said employees over ten thousand dollars of the wages due them by said Stanton before he could obtain possession of the rolling-stock and material of the road. The road was at this time in such bad condition that it was with difficulty that an engine alone passed over the road. Col. Gindrat as such receiver had the grass and weeds which had overgrown the road-bed cut down
719 and removed; braced, renewed, or repaired the temporary trestling; cut out the slopes, ditched and ballasted the cuts, filled in portions of the temporary trestle, bought tools and material, and put and kept on said road large and efficient bridge and construction forces, under the charge of Jas. H. Hemphill, the bridge-carpenter, and W. W. Mitchell, the road-master, respectively. He also built a depot at Tuscaloosa; water-works at Birmingham, Eppes Station, and Carthage; cotton platforms at Hull's, Carthage, Stewart's, Akron, and Boligee Stations, respectively, and otherwise expended large amounts of money on said road in construction and permanent improvements and betterments, in addition to ordinary and current repairs.

On account of the matters above stated the said road is in much bet-

ter condition in all its appurtenances than it was when the said receiver obtained possession of it, and the engines and rolling-stock of the same, excepting ordinary wear and tear, and the occasional accidents
720 that will occur in the running of any railroad, are in as good condition as when the receiver obtained posssession of them.

I have read the affidavits, in this cause filed, of Chas. O. Whitney, purporting to have been made 18' of May, 1872; and of Geo. M. Whitney and of B. F. Gardner, purporting to have been made of same date. It is not true, as falsely alleged in said affidavits, that during said receivership engines and rolling-stock of said road were ditched, and allowed to remain so without care or attempt at reclamation. I know what accidents have occurred in running said road during said time, and know that whenever rolling-stock has been run off the track or injured, and was susceptible of repair, the same has been in every instance looked after, reclaimed, and restored to use with due care and diligence.

I have read the affidavits, in this cause filed, of Chas. O. Whitney and A. H. Green and James P. Stanton, purporting to have been made 18 May, 1872, and Geo. S. Duncan, purporting to have been made on the 20' May, 1872.

It is not true, as alleged in said affidavits, that during said re-
721 ceivership supplies, material, and other property of said road have been stolen, destroyed, carried off, or otherwise improperly disposed of. All of the supplies and material of said road which came into the possession of said receiver have been properly cared for and guarded, and have been used legitimately for the road, and not otherwise.

I know the said Chas. O. Whitney, and know that he has been over the whole line of said road but once since said receiver took possession, and within my knowledge he on that occasion came in a passenger-car, and had no opportunity of becoming acquainted with the condition of the road, and was too drunk at the time to have informed himself about the same. I also know the said James P. Stanton. He was never over the whole line of said road during said receivership, and therefore had no means of knowing what he states in said affidavit. I also know the said Geo. S. Duncan. He was over said road but once during said receivership, and on that occasion was an applicant
722 for a situation which he did not get. I am satisfied that none of these parties could have travelled over the line of the road without my knowing it. I have read the affidavits in this cause filed of W. H. Millner and H. F. Parish, purporting to have been made 18 May, 1872; of W. R. Carlisle, made 20 May, 1872; and of Sid. B. Smith, made 31 May, 1872, and others. It is not true, as alleged in said affidavits, that during said receivership said road was managed by dissipated, reckless, or irresponsible men, or the trains run by drunken engineers or firemen or brakesmen, or that the employees on said road were drunken or worthless or incompetent. I was acquainted and knew the character of the employees on said road under the administration of J. C. Stanton, and am acquainted with and know the character of the employees under said receivership and now, having been connected with said road under both administrations in a capacity that enabled me to become so acquainted, and I know that the employees on said road under said receivership and now are almost without exception the same as under the admin-
723 istration of said Stanton, and that as a rule they are sober, faithful, competent and efficient, as much so as I ever knew on any railroad, and not reckless or drunken or worthless or incompetent.

It is not true, as alleged in said affidavits, that no control was exercised over said employees by their superiors, and that no discipline or subordination was enforced. The said receiver and the officers under him exercised the same control over their subordinates that officers of other railroads do; and they enforced as strict discipline and subordination as was practicable in the circumstances under which the road changed hands, and whenever there was disaffection or insubordination among employees, it was on account of the unpaid wages due them from the said J. C. Stanton.

I have read the affidavits, in this cause filed, of Seth Hopkins, purporting to have been made on the 18' of May, 1872, and of Geo. S. Duncan and Wm. H. Mi'lner, purporting to have been made 1 June, 1872.

724 It is not true as alleged in said affidavit that 520 tons or any other amount of new rails were removed, destroyed, or otherwise improperly disposed of while in the custody or possession of said receiver. All of the new iron rails which were along said railroad at the time the receiver obtained possession of it is still along said line or has been used on the track. Some new wings have been made and old ones prolonged with new iron, and no new iron whatever has been taken away or otherwise improperly disposed of by the said receiver or his employees, or during his possession. I am informed and believe that an unpaid employee of said Stanton, named John J. Conrance, obtained possession of two car-loads of new iron at York Station, under color of some legal process, and shipped the same to Noble & Bro. at Rome, Georgia; but this was done, if at all, before the said receiver obtained possession of said road and its appurtenances. I am, and have ever since said receivership took possession been, master of transportation of said road, with my office at Meridian, and no new iron could have been shipped off without my knowing it. The only iron ever shipped away

725 from said road during said receivership was a lot of old iron rails sold by H. F. Wheeler, then superintendent, to the Vicksburg and Meridian Railroad, and to Messrs. Colby & Co., of St. Louis. This iron was old iron from the track between Meridian and York, and was burned, kinked, worn out, and was useless until rerolled. The proceeds of this iron was used in the payment of employees of the road.

And it is not true that fish-bar fastenings with nuts and bolts for seven miles, or any other quantity, were removed, destroyed, or otherwise improperly disposed of while in the custody and possession of said receiver, as in said affidavits is falsely alleged.

When said Stanton completed the laying of the track on said road, he caused the surplus fish-bar fastenings, nuts, bolts, &c., to be collected, gathered up, and carried off to Chattanooga, before he abandoned said road, and long before the said receiver took possession. A very inconsiderable quantity of such fastenings, bolts, & nuts, if any, ever came into the possession of said receiver.

726 The Alabama and Chattanooga Railroad is now in the possession of and is managed and conducted under and by authority of the State of Alabama. It is well and efficiently officered, manned, equipped, organized, and administered. The road-bed is in 75% better condition than it was when the said receiver took possession of it. The bridges are in as good and the trestles in better condition; sufficient bridge and construction forces are regularly at work on the road to keep it in good repair. The rolling-stock is kept up and in proper repair, and for this purpose properly equipped and provided, machine-shops are in operation, one at Meridian, Miss., under charge of L. M. Humestone, and one at Chattanooga, Tennessee, under charge of H. M. Smith, mas-

ter machinist. Daily passenger and freight trains run over the whole line of the road and make their regular connection', carrying the express daily and the United States mails daily, except Sundays. The road is prepared to do all the business offering and more. Passengers are carried at the rate of four cents per mile, which is lower than any of the connecting road'. Freights are shipped and delivered regularly
727 and punctually, and at lower rates than any of the roads connecting at the southern terminus.

The road is now earning more than its running expenses, which is doing extremely well for this the dull season of the year, and the surplus is applied to the improvements of the road.

LEWIS J. WAGNER.

Sworn to and subscribed before me by the said Lewis J. Wagner, who is personally known to me, on this the 29th day of , A. D. 1872.

M. P. EVANS, [SEAL.]

U. S. Commissioner for the Southern District of the State of Mississippi.

Filed July 4th, 1872.

N. W. TRIMBLE, *Clerk.*

728 *Affidavit of John F. Bailey.*

Circuit court of the United States for the southern district of Alabama.

UNITED STATES OF AMERICA.

SETH ADAMS, FRANCIS B. LOOMIS, JOHN C. Stanton, et al.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, John H. Gindrat, John F. Bailey, et al.

I, John F. Bailey, make oath and say that I was in possession of said road only a few days before the sale thereof under the order of the district court of the United States for the middle district of Alabama; that I was in possession as assignee in bankruptcy, with John H. Gindrat as my co-assignee. He took the actual possession of the road in the name of the assignees, but I was never actually on said road and never saw it. This road, its rolling stock, etc., was sold on the twenty-second day of April, A. D. 1872, under the order of the district court aforesaid, at public auction, by the assignee, in bankruptcy of said company to the State of Alabama for the sum of three hundred and
729 twelve thousand dollars; that afterwards said sale was reported to the district court aforesaid, and on the day of June, A. D. 1872, said sale was confirmed by said court, and the State of Alabama ordered to be let into the possession thereof; that I have never exercised or claimed to exercise any control over said road or the property of said company, sold as aforesaid, since the confirmation of the sale thereof, and that the State of Alabama is in possession thereof through its agents; that none of the property of said company has been in my actual possession, except as may otherwise be hereinbefore stated.

On or about the twelfth day of June, A. D. 1871, I was in Chattanooga, Tennessee, where I remained for three days, and ascertained during that time that Stanton had ceased to operate the road, and that

the said road was controlled by an irresponsible crowd of unpaid laborers and employees. I am not aware that I know anything more that is material.

JOHN F. BAILEY.

Sworn to and subscribed this 21st day of June, A. D. 1872.

E. C. V. BLAKE,
Clerk U. S. District Court.

Filed July 4th, 1872.

N. W. TRIMBLE,
Clerk, &c.

730 *Affidavit of R. W. Healy, for respondents.*

Circuit court of the United States for the southern district of Alabama.
In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. STANTON, trustees, &c., complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, and Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, as trustees, &c., and others, defendants.

I, R. W. Healy, of Montgomery, Alabama, maketh oath and say I am marshal of the United States for the southern and middle districts of Alabama, and have been since 1867. On or about the 12th day of June, 1871, in obedience to the orders of the district court for the
731 middle district of Alabama, I went to Meridian for the purpose of turning over the possession of the Alabama and Chattanooga Railroad, running from that point to Chattanooga in the State of Tennessee, to E. H. Grandin and John F. Bailey, who had been appointed by the judge of said court as custodians of said road and its property under a decree of bankruptcy. I found the road and its property at Meridian in the possession and control of persons who claimed to have been employees of said road, and who had not received their pay. These persons refused to permit the property to be used until they were settled with. The road then was not used for the transportation of freight or passengers. The only engines and cars belonging to it
732 were at Meridian or Chattanooga, and at the latter place they were under attachments of the State courts and in the possession of the officers, and at the other place, as stated, they were in the possession of persons acting without authority of law. We obtained an engine and cars from these persons at Meridian, and went from that point to Chattanooga along the line of the road. From the Warrior River to Tuscaloosa we found the road in bad order, owing to the want of drainage and care of the track, and for some distance above Tuscaloosa towards Chattanooga we found the road in an unfinished condition, the track being only temporary for some miles; but with these exceptions I found the road-bed in very good condition. There were no hands at work on the road at any point between Chattanooga
733 and Meridian, and no trains were running.

The late employees along the road from Chattanooga to Meridian claimed to have been unpaid for their work and refused to permit the road to be used until they were paid.

About twenty miles this side of Chattanooga we were met by a body of armed men who had come out from Chattanooga to meet us. Our train was captured and search made for United States mail. They said that no mails should go through and no trade be carried on on the road until they were paid. We persuaded them that we were their friends, and finally they permitted us to go through. Upon arriving at Chattanooga our train was attached by the State courts for debts of the
734 company, as all of the property of the company at that end of the line had previously been. At that time the company had no control of its rolling-stock at Chattanooga on account of said attachments and the interference of the striking employees. And further than this deponent saith not.

(S'g'd) R. W. HEALY.

Sworn to and subscribed before me this 3rd day of July, A. D. 1872, by the said Robert W. Healy.

(Signed) J. F. DRESSER,
U. S. Commissioner, Mid. Dist. of Ala.

Filed July 4th, 1872.

N. W. TRIMBLE, *Clerk.*

735 A A.—*Transcript of petition and order of sale, &c.*

In the district court of the United States for the middle district of Alabama. In bankruptcy.

IN THE MATTER OF THE ALABAMA AND CHATTANOOGA Railroad Company, a bankrupt.

To the honorable Richard Busteed, judge of the said court:

The undersigned, assignees in bankruptcy of the Alabama and Chattanooga Railroad Company, respectfully report unto your honor that, under and by virtue of a decree rendered by this honorable court on the 13th day of March, A. D. 1872, in the matter of the petition of
736 John H. Gindrat, Samuel B. Jones, and John F. Bailey, assignees, &c., as aforesaid, for the sale of the franchises and property of the said Alabama and Chattanooga Railroad Company, and after giving previous notice of the time and place of said sale by advertising the same for more than thirty days in each of the newspapers in said decree mentioned, they proceeded, on the 22nd day of April, 1872, in accordance with all the terms of said decree, to sell all the continuous railroad of said company from the terminus at Meridian, in the State of Mississippi, to its terminus at Wauhatchie, in the State of Ten-
737 nessee, together with its franchises, equipments, rolling-stock, machine-shops, depots, water-stations, road-bed, machinery, tools, easements, and every other right, interest, or estate whatsoever which was conveyed by said Alabama and Chattanooga Railroad Company by its mortgage or deed of trust executed on the 19th day of December, 1868, to Seth Adams, Francis Dane, and John Demeritt, trustees, together with the machine-shops, machinery, and tools, depots and station-houses in the city of Chattanooga, State of Tennessee, subject, however, to the lien of the State of Alabama on its endorsements of the first-mortgage bonds of said railroad company, and to the lien of the holders and owners of the first-mortgage bonds so endorsed by the State of Alabama, to the amount of forty-seven hundred and twenty thousand dollars, and subject to the further lien of the State

of Alabama for interest paid on the said mortgage-bonds to the amount of eight hundred and thirty-two thousand five hundred and eighty-six dollars, and subject to the further lien of the State of Alabama for such further interest as it may hereafter pay on said first-mortgage bonds, and subject to a lien of the State of Georgia upon so much of said road as is situate in said State.

Before the sale was proceeded with the assignees announced the
739 terms of sale which are hereto attached, marked "Exhibit A," as part of this report, and also stated that certain property which belonged to the company, the titles to which were in the name of other parties, was not included in the list of property to be sold, to wit, certain real estate and improvements thereon, situated at Chattanooga, including the hotel and post-office building and other property at Chattanooga not connected with the railroad; nor did it include the hotel property at Attalla, nor the lands donated to it by Congress, nor the telegraph lines, nor the unpaid stock; the assignees further stated that the
740 lien of the State of Georgia mentioned in the notice of sale had not been adjusted, and therefore the sale would be made subject to that lien.

Judge W. J. Haralson, on his own behalf as a creditor, and in behalf of certain other creditors of the bankrupt, announced from the stand that he forbid the sale.

Judge S. F. Rice gave notice on behalf of William F. Drake, Rice, Chilton, and Jones and others, holders of large amounts of the second-mortgage bonds of the bankrupt, and also on behalf of the bankrupt, that they protested against the sale as being unauthorized and illegal; he also gave notice of the pendency of the bill in equity in the
741 United States circuit court at Mobile, wherein William F. Drake and others are complainants and John H. Gindrat and others defendants, and that the purchaser or purchasers at this sale, whoever they might be, would be made parties defendant to that suit as soon as pen, ink, and paper could make them, and all the questions presented by that bill would be pressed to a decision.

William S. Thorington, esquire, as attorney for Campbell, Wallace, and other holders of the second-mortgage bonds of the bankrupt, also protested against the sale, and gave notice that the validity of the sale would be contested by his clients as well for the reservations
742 made in the sale as for all other legal reasons.

John A. Minnis, esquire, United States district attorney, gave notice of a debt due the United States Government, amounting to about nineteen thousand dollars, which he claimed was paramount to all other liens upon the property.

The crier then put up the property and the State of Alabama became the purchaser thereof at the sum of three hundred and twelve thousand dollars, that being the highest and last bid therefor.

The undersigned further report that no portion of the purchase-money has yet been paid.

743 All of which is respectfully submitted.

JOHN H. GINDRAT,
JOHN F. BAILEY,
Assignees in Bankruptcy of the Alabama and Chattanooga Railroad Company.

UNITED STATES OF AMERICA,
Middle District of Alabama:

Before me, George H. Patrick, commissioner of bail and affidavit in and for said district, personally appeared John H. Gindrat and John F.

Bailey, assignees in bankruptcy of the Alabama and Chattanooga Railroad Company, who, being duly sworn, state under oath that the
744 matters and things contained in the foregoing report are true.

JOHN H. GINDRAT.
JOHN F. BAILEY.

Sworn to and subscribed this 22nd day of May, A. D. 1872, before me.

GEO. H. PATRICK,
U. S. Commissioner, Middle District of Alabama.

Read in open court and ordered to be filed May 29th, 1872.

E. C. V. BLAKE,
Clerk.

Supplemental report of assignees.

745 District court of the United States for the middle district of Alabama. In bankruptcy.

IN THE MATTER OF THE ALABAMA AND Chattanooga Railroad Company, bankrupt.

To the honorable Richard Busteed, judge of the district court of the United States for the middle district of Alabama:

The undersigned, assignees in bankruptcy of the Alabama and Chattanooga Railroad Company, respectfully beg leave to make the following supplemental report:

His excellency Robert B. Lindsay, governor of the State of Alabama, has this day satisfactorily arranged with the undersigned as-
746 signees, &c., for the three hundred and twelve thousand dollars bid by the State of Alabama for said railroad, its machinery, rolling-stock, &c., as heretofore reported to this honorable court, in the following manner: He has paid to us in cash the sum of one hundred thousand dollars, and to secure the payment of the balance—two hundred and twelve thousand dollars—has given us his official draft on Lehman, Durr and Company, financial agents of the State of Alabama, and accepted by them for said sum of two hundred and twelve thousand dollars, payable to us forty days after date, and the bond of
747 the State of Alabama in the penal sum of four hundred and twenty-four thousand dollars.

The undersigned, therefore, respectfully request that the sale of said road, as heretofore reported by them, be confirmed by this honorable court.

All of which is respectfully submitted.

JOHN F. BAILEY,
JOHN H. GINDRAT,
Assignees in Bankruptcy of the Alabama and Chattanooga Railroad Company.

MIDDLE DISTRICT OF ALABAMA, *ss:*

Before me, Lawrence Worrall, register in bankruptcy in and
748 for said middle district of Alabama, personally appeared John F. Bailey and John H. Gindrat, who, being duly sworn, depose and

say that the matters and things contained in the foregoing report are true.

JOHN F. BAILEY.
JOHN H. GINDRAT.

Sworn to and subscribed this 14th day of June, A. D. 1872.

LAWRENCE WORRALL,
Register in Bankruptcy for the Middle District of Alabama.

The undersigned, as attorneys appointed by the court, of the as-
749 signees in bankruptcy of the Alabama and Chattanooga Railroad Company, beg leave to state their concurrence in the foregoing supplemental report of said assignees, and recommend the confirmation of the sale made by them of said railroad to the State of Alabama, and the approval by the court of the arrangement made as reported for the payment of the balance of the purchase-money.

June 14th, 1872.

J. A. ELMORE.
E. A. O'NEAL.
W. M. BROOKS.
L. P. WALKER.

Filed June 15th, 1872, at 1 p. m.

E. C. V. BLAKE,
Clerk.

750 *Decree confirming reports and sale of assignees.*

The district court of the United States for the middle district of the State of Alabama. In bankruptcy.

IN THE MATTER OF THE ALABAMA AND CHATTANOOGA Railroad Company, a bankrupt corporation.

This cause coming on to be further heard upon the original report of John F. Bailey and John H. Gindrat, the assignees of said bankrupt, as to the sale of the railroad and other property under the decree of this court rendered in this cause on the 13th day of March, 1872, which
751 report was read in open court and filed in the clerk's office on the 29th day of May, 1872, and shows that said railroad company and other property was sold under said decree on the 22nd day of April, 1872, to the State of Alabama, for the sum of three hundred and twelve thousand dollars; and also upon the supplemental report of the said assignees, this day read in open court and filed in the clerk's office, showing that the State of Alabama has paid to said assignees one hundred thousand dollars of the said purchase-money, and secured the balance thereof by a certain draft and bond at forty days, as
752 therein stated; and coming on also to be heard upon the report of Lawrence Worrall, the special master of this court, made under the previous order of this court, and filed in the clerk's office on the 13th day of June, 1872, showing, amongst other things, that the sale of said property was fairly conducted and made, and that neither the biddings nor bidders were in any manner affected by any acts or interference of others: on motion of Elmore and others, the solicitors of the said assignees, it is ordered, adjudged, and decreed, that the said original and supplemental reports of the said assignees, and the said sale, do

753 stand in all things approved and confirmed, and that the State of Alabama be allowed as the purchaser of said railroad and other property, and now be let into the enjoyment and possession thereof; and that the said State remain in such enjoyment and possession without let or hindrance until the further or other order of this court.

June 15th, 1872.

RICHARD BUSTEED,
Judge, &c.

Filed June 15th, 1872, at 1 p. m.

E. C. V. BLAKE,
Clerk.

754 In the district court of the United States for the middle district of Alabama.

I, E. C. V. Blake, clerk of the district court of the United States in and for the district aforesaid, hereby certify that the foregoing pages numbered from 1 to 12 contain a full, true, and correct copy of the report of sale by assignees, supplemental report of sale by assignees, and the decree confirming reports and sale of assignees, in the matter of the Alabama and Chattanooga Railroad Company, bankrupt, as they appear on file and of record in my office.

Witness my hand and the seal of said court at Montgomery this 26th day of June, A. D. 1872.

[SEAL.]

E. C. V. BLAKE,
Clerk U. S. Dist. Court, Middle Dist. of Alabama.

Filed July 4th, 1872.

N. W. TRIMBLE,
Clerk.

755 United States circuit court in the southern district of Alabama, at Mobile.

SETH ADAMS, FRANCIS B. LOOMIS, & JOHN C. Stanton, trustees, &c.,
vs.
ALABAMA & CHATTANOOGA RAILROAD COMPANY, Lewis Rice, A. C. Lippitt, & Daniel N. Stanton, trustees, &c.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States for the eastern district of Tennessee, Erastus F. Johnson, a resident of Ring'old, State of Georgia, who, after being duly sworn, deposed and said as follows: I was appointed by Gen'l Wm. F. Wofford on the 18th day of December, 1871, as general freight & ticket agent of the Ala. & Chattanooga Railway, with office at Chattanooga, Tennessee. While I was in the office aforesaid the said railway was operated regularly and in a busi-

756 ness way, so far as my administration extended, on the northern division. As far as I know all care was taken to preserve & protect the property of said railway from waste, destruction, or injury. Watchmen were kept to guard the property of said railway. On the 9th day of February, 1872, I went, at the request of the special agent in charge of the property of the said railway that had been turned over to the receiver appointed by the chancery court for the county of Ham-

ilton & State of Tennessee, to the grounds of the union passenger-depot of said railway, where a civil officer for the county of Hamilton & State of Tennessee was selling to a crowd of persons some lumber that I am informed was intended for the construction of the said union passenger-depot of said railway, and I saw and heard then and there the said special agent forbid the sale of said property in the name of the State of Alabama, and warn all parties or persons present not
757 to buy the same, and if they did, they would do the same at their own risk, as the title of said property vested in the State of Alabama by virtue of its prior mortgage-lien on same as property of the said railway, and I also heard the persons present as bidders tell the officers as aforesaid to go ahead, they would stand between him and all harm.

ERASTUS F. JOHNSON.

Sworn to & subscribed before me this 27th day of June, 1872.

J. M. JOHNSON,
U. S. Commissioner Dist. East Tennessee.

Filed July 5th, 1872.

N. W. TRIMBLE,
Clerk.

UNITED STATES OF AMERICA:

United States circuit court in the southern district of Alabama, at Mobile.

SETH ADAMS, FRANCIS B. LOOMIS, AND
758 John C. Stanton, trustees for the holders of the bonds secured by the first mortgage on the Ala. & Chattanooga Railway Company, complainants,
against
THE ALABAMA & CHATTANOOGA RAILWAY Company, Lewis Rice, A. C. Lippett, and Daniel N. Stanton, trustees for the holders of the bonds secured by the second mortgage on the Alabama & Chattanooga Railway Company.

I, Archibald T. Sheats, a resident of Bartow County, State of Georgia, at present employed with the Ala. & Chattanooga Railway, at Chattanooga, Tennessee, after being duly sworn, depose and say as follows: That I was appointed on the 25th day of December, 1871, as yard-master in the yard of the Alabama and Chattanooga Railway, at Chattanooga, Tennessee. I have since that time also acted in the capacity of receiving clerk with local freight agent at this point. I have
759 for the past two months been acting in the capacity of soliciting and travelling agent for the said railway. Since I came here on the 25th day of December, 1871, I know that the rolling-stock and general property of the said railroad has been well cared for and preserved from waste and injury, and *not* to my knowledge nothing has been destroyed or improperly disposed of by any agent or agents under the present authorities of the said railway. Economy has been observed in the use of all material and supplies of every kind, & none has been suffered

to be wasted or squandered. All repairs have been promptly made on all property, and rolling-stock especially. Day & night watchmen have been kept to guard the property from waste or depredation by evil-designing persons. There have been a good many supplies purchased by the present authorities of the said railway for the op-
760 eration of the said road, and many tools have been purchased by the present authorities of the said railway. I regard the property of the said railway at this place (Chattanooga) in a better condition and state repair than when I came here as aforesaid. Daily trains are now run on the said railway, accommodating the travelling and shipping public and giving general satisfaction. There is a construction train and force constantly at work on the road, and has been ever since I came here in connection with the said railway as aforesaid. There are also men at work on the superstructure of the said railway, with the proper facilities to keep the same in repair and good order. There is also a sufficient track-force on the said railway to keep the track and road-bed in good repair. The trains make their schedule-time and prompt and close connections. The character of the employees is excellent. Some few have a limited experience in rail-
761 road matters, but they are careful and cautious in the execution of duty, and do not occupy position where life or property is in jeopardy from accident arising from any lack of experience. So far as I am able to judge and know, the business and operation of the road is conducted with the best system and order, with a proper economy & with a high-toned sense of right and justice. I know that no property has been sold or disposed of without the proper legal authority from the courts since I came with the said railway.

A. A. Y. SHEATS.

Sworn to and subscribed before me this 26th day of June, 1872.

J. M. JOHNSON,
U. S. Commissioner, Dist. of East Tennessee.

Filed July 5th, 1872.

N. W. TRIMBLE,
Clerk.

UNITED STATES OF AMERICA:

762 Circuit court of United States for the southern district of Ala., in equity, at Mobile.

SETH ADAMS, FRANCIS B. LOOMIS, JOHN C. Stanton, trustees, &c., et als.,
vs.
THE ALABAMA & CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippett, D. N. Stanton, trustees, &c., et als.

I, Thomas Webster, a resident and citizen of Chattanooga, Hamilton County, Tennessee, being first duly sworn, deposes and say that I am proprietor of the Chattanooga machine-shop, in the city of Chattanooga. I have furnished to W. T. Wofford large amounts of materials for repairs to cars and machinery & engines every month since he took possession of the Alabama & Chattanooga Railroad, as receiver, up to the present time. The bills for all such materials so furnished by me have always been promptly met and paid.

THOS. WEBSTER.

763 Sworn to before and subscribed this 28th day of June, 1872.

J. M. JOHNSON,
U. S. Commissioner, Dist. East Tennessee.

Filed July 5th, 1872, at 9 a. m.

N. W. TRIMBLE, *Clerk.*

UNITED STATES OF AMERICA:

United States circuit court, in the southern district of Alabama, at Mobile. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Alabama and Chattanooga Railway Company, complainants,

against

THE ALABAMA & CHATTANOOGA RAILWAY Company, Lewis Rice, A. C. Lippett, and Daniel N. Stanton, trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chattanooga Railway Company, and others, defendants.

764 I, S. B. Lowe, a resident and citizen of Chattanooga, in the county of Hamilton, in the State of Tennessee, being duly sworn, depose and say: I am manager of the Vulcan Works, in Chattanooga. In the year 1870 & '71 J. C. Stanton, for the Alabama & Chattanooga Railroad, bought a large quantity of axles, car-work bolts, and fish-plates to be used in the construction of that road. He thus became largely indebted to me. Where there appeared to be a question of doubt about my getting my pay, he expressed to me the most positive determination to make it a personal matter in seeing me protected—I mean the Vulcan Works. I had several interviews with him, during one of which he made a sale to me of all the surplus fish-plating bolts and car-works, or rather agreed to return to me all the fish-plates, &c., which I had sold him, and also sold to me all the scrap iron that he had, car-wheels & other
765 material. This was in the spring of 1871. To further this sale, he gave to me, and also to my agent, all documents necessary to collect and gather up the same, also instructing his various agents to facilitate me in every possible manner. I had several conversations with Mr. Stanton, about to this extent. I sent my agent down the line of the road, and he collected up the material turned over to me by Mr. Stanton. For this material I allowed him about $12,000.00. It amounted to about 18 car-loads in all, delivered free. He furnished transportation to my agent free, to enable him to collect it up, and when collected sent it to Chattanooga without any charge for freight against me. My agent was some time in collecting up this material, and about the time at which Stanton stopped running his road a lot of this material
766 was attached by some of his creditors here in Chattanooga, which I replevied. It was until the month of July, about the first part of the month, before all this material was collected up and brought to Chattanooga. My purchase embraced all the scrap-iron which he had, all the surplus fish-plates and bolts, and all the car-works and bar-iron in the yard at Chattanooga. Since the road passed into hands of Genl. Wofford, receiver, I have done a great deal of business with the Ala. & Chattanooga Railroad in the way of shipping and receiving freight.

This has been done in a manner satisfactory to me. I have sold the road some supplies, material, &c., and have always been promptly paid. So far as I know, the management of the road gives satisfaction to the shipping portion of the community. My shipments are always now promptly delivered, and to the entire satisfaction of the parties interested;
767 and all goods shipped to me come promptly and in a manner entirely satisfactory.

S. B. LOWE.

Sworn to and subscribed before me this 29th day of June, 1872.

J. M. JOHNSON,
U. S. Commissioner, Dist. East Tenn.

Filed July 5th, 1872, at 9 a. m.

N. W. TRIMBLE,
Clerk.

UNITED STATES OF AMERICA:

Circuit court of United States for the southern district of Alabama, in equity, at Mobile.

SETH ADAMS, FRANCIS B. LOOMIS, JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Ala. & Chattanooga Railroad, et als., complainants,
vs.
THE ALABAMA & CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippett, D. N. Stanton, trustees for the holders of the bonds secured by the second mortgage of the
768 Alabama & Chattanooga Railroad, et als., defendants.

Thomas Webster, foundryman and machinist, of Chattanooga, Tenn., and C. H. Mills, a member of the firm of Mee & Mills, oil-dealers in Chattanooga, residents and citizens of Chattanooga, in the county of Hamilton, State of Tennessee, after being duly sworn, depose and say as follows: We were appointed commissioners by the chancery court of this district, for Hamilton County, on the 9th day of September, 1871, to take an inventory and appraise the value of all the property belonging to the Alabama & Chattanooga Railroad Company in Chattanooga, Tennessee. Two other commissioners were also appointed by the receiver of the State of Alabama, viz, James H. Van Alsten and Charles D. Gaylord, who assisted us in the work. We made a very careful inventory of the property. We have been called on to examine the property there taken down, and to give our opinion, from such ex-
769 amination, of its present condition, as compared with the condition it was in at the time we took the inventory. We found the engines, locomotives, apparently in better condition than they were on the 9th day of September, 1871, when the property here was turned over to the receiver, Genl. Wofford, who ran the road to Attalla; difficulties then occurring on the lower end, he, Wofford, ran the road to Birmingham, which he has continued to the present time with success. This affidavit is intended to apply to the acts of Genl. Wofford, who is the regularly-appointed receiver for the State of Georgia. Much of it was in bad condition—rolling-stock crippled and out of order, locomotives out of repair, and a general appearance of demoralization in the various departments of the road. We have made the inspection, and now find the rolling-stock all in good order, good discipline in the shops, and evi-

dence thrift and order about the premises. The only property
770 we find out of place is some iron bolts and washers, & lumber, which was at that time lying about the site of the new passenger-depot. This lumber and bolts, &c., was sold under an execution against the company, and sale ordered by the court, before we took the inventory.

Some other property, such as car-wheels and car-axles, to the value of about $3,500 00 was also sold under execution; that this sale was before the receiver was appointed, and the property was not in our inventory. We were cognizant, however, of the sale.

There was two desks in the office claimed when the inventory was taken, which are not here now. These desks were claimed at the time as the property of Thomas J. Carlisle and Robert Cravatte, and we were satisfied the claim was proper, and recommended that the desks be delivered to them.

We have had good opportunity for observing the management
771 of that part of the road which was under the control of W. T. Wofford, and can say that in our judgment it has been managed and run by him discreetly, economically, and with ability. He has at all times, so far as came under our observation, enforced good discipline, and won the respect of the business public, as well as those persons under his control.

We must also add that the machinery and shops have been under the control of the old master mechanic, H. M. Smith, who was appointed by W. T. Wofford, receiver. He has kept the machinery in good order and shown good judgment in the management of his department, especially under the embarrassment surrounding him.

THOS. WEBSTER.
CHAS. H. MILLS.

Sworn to & subscribed before me this 28th day of June, 1872.

J. M. JOHNSON,
U. S. Commissioner, Dist. East Tenn.

Filed July 5th, 1872, at 9 a. m.

N. W. TRIMBLE, *Clerk.*

772 UNITED STATES OF AMERICA:

United States circuit court in the southern district of Alabama, at Mobile.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Alabama & Chattanooga Railway Company, complainants,

against

THE ALABAMA & CHATTANOOGA RAILWAY Company, Lewis Rice, A. C. Lippett, and Daniel N. Stanton, trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chattanooga Railway Company.

I, James M. Lackey, a resident of Cartersville, Bartow County, State of Georgia, but at present residing temporarily at Chattanooga, State of Tennessee, by reason of my being connected with the Alabama & Chattanooga Railroad, after being duly sworn, depose and say as fol-

lows: I was appointed on the 23d day of November, 1871, by
773 William F. Wofford, receiver for the State of Georgia in the matter of the Alabama & Chattanooga Railroad, as br*eak*man on the said railway, since which time I have also been baggage-master on the said railway, and more recently car-inspector on the said railway. I think the rolling-stock and general property of the said railway is in much better condition now than when I first came here, on the 24th November, 1871, as aforesaid. All the rolling-stock here at the time of my coming here, and that was in a crippled condition then, has since been repaired and put in first-class running order. All repairs have been and are now promptly and properly made on all property whatsoever. The condition of the said railway is a great deal better than it was when I first came here as aforesaid. There is a sufficient force of track and bridge hands at work on the line of said railway, and has been all the while, with a construction-train and sufficient force therewith to do all the necessary work in keeping the same in good
774 and first-class repair. They have tools, dump & crank cars sufficient, and every facility is afforded them to do their work well. A good many of the tools now used on the said railway were purchased by the present authorities of the said railway, and some were issued out of the store-room here at this place. The trains have been and are running regularly through on schedule-time, making their time and due connection, and giving general satisfaction to shippers and the travelling public, without any accidents of a serious character. They are only moved on orders from proper authority. There have been day and night watchmen constantly employed here to take of, to guard, and protect the property of the said railway from waste and destruction. Every care has been taken of the property of the said railway that could be, and a commendable vigilance and economy exercised and enforced in the use and protection of all stores, supplies, and property of the
775 said railway. I know of no property that has been removed or disposed of by any agent of the said railway without the proper authority. The character of the employees of the said railway is good for sobriety, honest', attention to business, energetic, and hardworking. There are no cars or rolling-stock of any kind now lying on the side of the said railway in a damaged or wrecked condition, but all of it is in first-class running condition.

JAMES M. LACKEY.

Sworn to and subscribed before me this 26th day of June, 1872.

J. M. JOHNSON,
U. S. Commissioner, Dist. East Tennessee.

Filed July 5th, 1872.

N. W. TRIMBLE, *Clerk.*

776 In the circuit court of the United States for the southern district of Alabama.

SETH ADAMS ET AL.
vs.
THE ALABAMA & CHATTANOOGA R. R. ET AL.

We, S. A. Key & T. Richmond, of the law-firm of Key & Richmond, each being duly sworn, say that we are the attys. for the State of Alabama in the various suits now pending in the State courts of Tenn., at Chattanooga, in said State; that as such attys. we have been fre-

quently consulted by Mr. T. G. Garrett, the agent appointed by the assignees in bankruptcy of said railroad, as to the best means to be employed to preserve the property of said road in his hands or under the control of said assignees; that in so far as the said Garrett had power to act he was disposed to take every legal step necessary to protect the property aforesaid situated at Chatt., Tenn., & did do
777 all that his limited means enabled him to do.

(Signe') S. A. KEY,
T. RECUMOND.

Sworn to and subscribed before me this 28th day of June, 1872.
J. M. JOHNSON,
U. S. Commissioner, Dist. East Tenn.

Filed July 5th, 1872.
N. W. TRIMBLE, *Clerk.*

778 UNITED STATES OF AMERICA:

Circuit court of United States for the southern district of Ala., in equity, at Mobile.

SETH ADAMS, FRANCIS B. LOOMIS, JOHN C. Stanton, trustees, & others,
vs.
THE ALABAMA & CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippett, D. N. Stanton, trustees, and others.

I, C. H. Mills, a resident and citizen of Chattanooga, in the county of Hamilton and State of Tennessee, being duly sworn, depo*nant* say that I am the book-keeper and one of the firm of Me' & Mills, oil-dealers, in the city of Chattanooga, Tennessee; that the firm of Me' & Mills did *well* during the year 1871 to G. M. Whiting, missing supplies, and the supplies were all shipped to the Eureka Mills in DeKal*k* County,
779 Ala. The bills for said supplies were settled for by G. M. Whiting by a thirty days' draft on the Eureka Mining Company, payable at the Discount & Deposit Bank, Chattanooga. These drafts were drawn to the order of Me' and Mills on G. M. Whiting, superintendent Eureka Mining Company, and accepted by G. M. Whiting, supt., and endorsed by G. M. Whiting. These drafts went to protest & have not yet been paid. G. M. Whiting represented to me, before we left Tennessee, that the Eureka mines were his property, and that *we* had purchased said mines from John C. Stanton. I sold supplies to G. M. Whiting as the owner and proprietor of the Eureka mines, and he avowed himself & acted as such, having purchased the mines of J. C. Stanton. So far as I know G. M. Whiting is still the owner of the Eureka mines.

(Signe') CHARLES H. MILLS.

780 Sworn to & subscribed before me this 28th day of June, 1872.
J. M. JOHNSON,
U. S. Commissioner, District East Tenn.

Filed July 5th, 1872, at 9 a. m.
N. W. TRIMBLE, *Clerk.*

781 UNITED STATES OF AMERICA:

Circuit court of United States for southern district of Alabama.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Alabama & Chattanooga Railway Company, complainants,

vs.

THE ALABAMA & CHATTANOOGA RAILWAY Co., Lewis Rice, A. C. Lippett, & Dan'l N. Stanton, as trustees for the holders of the bonds secured by the second mortgage on the Alabama & Chatt. Railway Co. et al., defendants.

I, Jacob G. Southward, a resident & citizen of Chatt., in the county of Hamilton and State of Tenn., after being duly sworn, deponant say as follows: I am a book-keeper by profession. I was book-keeper & time-keeper for the Ala. & Chatt. Railway Company at the shops of said company in Chatt. from the 16 Jan., 1871, until the 28 July, 1871.
782 After the State took possession of said road I was time-keeper for the authorities who took charge of said road from 6 Nov., 1871, until 1st Feb., 1872. At the time I was book & time keeper for the Ala. & Chatt. Railroad Company I know that said company bought or procured coal from the Eureka coal-mines, which were operated first by one Levenes, and afterwards by one Whitney. The bills for the coal were made out by said Whitney against said company, and were compared by me and their correctness certified to before they were presented for payment. At the said time, when I was the book and time keeper for the said road, prior to its seizure by the States of Georgia and Alabama, the tools, machinery, & other material belonging to the machine-
783 shop at Chatt. were in good condition & sufficient for the purposes of said road. I have been at said shop constantly and sleep in the office of the same. Since the said shop came into possession of the said authorities of the States of Georgia & Ala., I have been for the time mentioned above employed by said authorities. When said States took possession of said road, said shop was in good condition, and the tools and machinery were in very good order. The said tools & machinery belonging to the shops at Chatt. is in good condition, and has been well preserved & cared for. My means of information is derived from the fact that I am constantly at said shop, sleeping in the office, and I know that all work essential to be done in the shops by said company in the way of repairs to engines, cars, & road-bed, &c., has been
784 done promptly & efficiently. In the month of July and on the night of the 27th day said month, I issued and had levied an attachment from a justice's court in Chatt., Tenn., on all the material in the store-house, at the shops, and on 116 car-wheels out of doors, in the yard; 34 in machine-shop, 16 stores & fixtures, 3 patent car-roofs, and other things. Twenty six or seven other attachments were levied on this same property at the same time, or about, by different parties. The attachments were issued for, and based on, claims owing us by J. C. Stanton or the Ala. & Chatt. Railroad for work and labor done. None of this property has been sold under these attachments, the same being prevented and enjoined by the authorities of Ala. and others. No prop-

erty to my knowledge has been taken from said shops since the
785 same came under the control of said State authority. I know that the Alabama & Chatt. Railroad has been carefully and well managed since Genl. W. T. Wofford came into possession of the same; the road has been run carefully and economically, and the employees of said road are safe and reliable men.

(Signed) J. G. SOUTHWARD.

Sworn to & subscribed before me this 27th of June, 1872.

J. M. JOHNSON,
U. S. Commissioner, Dist. East Tenn.

Filed July 5th, 1872.

N. W. TRIMBLE, *Clerk.*

786 Circuit court of the United States, southern district of Alabama.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees, &c., *vs.* THE ALABAMA & CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippett & Daniel N. Stanton, and others.	On bill for injunction & receiver.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, Charles H. Mills, of the firm of "Mee and Mills," of Chatt., in said State, who, after being duly sworn, says that he is forty-seven years of age, & is conversant with the present management of the northern division of the Ala. & Chatt. Railroad, & that the firm of "Mee and Mills" have at various times shipped goods over the line of said railroad, under Genl. Wofford' management, and that they have in every instance been promptly forwarded and delivered at their
787 respective destination, and also that *that* they have made many sales of railroad supplies to the said railroad under the said management, and that their bills have already been promptly paid. Deponent further says that the northern division of the Alabama & Chatt. R. R., while under the control of Wm. T. Wofford, has given general satisfaction to the business men of Chattanooga, and also to those with whom I have conversed who live along its line, all uniting in praise of its excellent discipline and general good order.

(Signed) CHAS. H. MILLS.

Sworn to & subscribed before me this 26th day of June, 1872.

J. M. JOHNSON,
U. S. Commissioner, Dist. East Tenn.

Filed July 5th, 1872.

N. W. TRIMBLE, *Clerk.*

788 UNITED STATES OF AMERICA:

United States circuit court in the southern district of Alabama, at Mobile.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN N. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Ala. & Chatt. Railway Company, complainants,

against

THE ALABAMA & CHATTANOOGA RAILWAY Company, Lewis Rice, A. C. Lippett, and Daniel N. Stanton, trustees for the holders of the bonds secured by the second mortgage of the *Adams* and Chatt. Railway Company.

I, Hawkins F. Price, a resident of Bartow County, State of Georgia, a farmer and planter, but for the present living at Chattanooga, Tenn., in connection with the Ala. & Chatt. Railway, being duly sworn, depose and say as follows: I was appointed by William T. Wofford and John H. Gindrat, receivers for the Ala. & Chatt. Rail-
789 way, treasurer of the northern division of the said Railway; said appointment was made on or about the 13th day of Nov., 1871. I immediately entered upon the duties of my office, and have been here all the while with the exception of a few days' absence. The receipts for the month of November and part of December were mos*l*ty reported to the treasurer for the southern division of said railway. I have kept, in regular book-keeping form, all the moneys received, entered under the proper head of source from whence received, and have vouchers to show for its faithful and legal disbursement, as will also be fully shown under the proper heads on my books. All agents & conductors make regular, prompt, and accurate reports of monies received from every source whatsoever, and an accurate of same is kept in my office at Chat., Tenn., and of all the business in
790 my department of the said railway. There has been a scrupulous and uncommon economy exercised and rigidly observed in the use of all stores, supplies, & property, and also in the remunerative salaries of employees of said railway; and to my knowledge William T. Wofford, receiver for the State of Georgia, for the State of Ala. & Chatt. Railway, from the time of his taking official charge of the said railway, has defrayed and borne his expense and part of my own in travelling to & from different points in the interest of the said railway, and not until the 9th day of Feb. last did he receive any funds from the said railway as remuneration for his services or as re-imbursing him for the said outlay of his own individual funds in the interest of the said railway. The condition of the said railway & all the rolling-stock thereof has been well & carefully cared for & that the same is in better
791 condition now than when I came on it last November, as aforesaid. All repairs have been promptly properly made, of every kind whatsoever, and I have "vouchers" for all service rendered & material used in making such. Much has been expended on maintenance of way or maintenance of cars, and for motive-power. There is a sufficient force at work on the track road-bed to keep the same in first-class condition; a sufficient force also at work on superstructures, with all necessary tools, dump & crank cars, and, in short, all the necessary

facilities are furnished them to keep the same in good & first-class repairs. There is also a construction force with a construction train constantly at work on the line of the said railway, & improvements have been made by putting in two side-tracks at Birmingham, Ala.,
792 one at Trussville, Ala., at a cost of two thousand dollars. I regard the said railway and property thereof in a better condition now than when I first came with it. Trains are run regularly, schedule time, through, making their time and due connections on said railway, and they give general satisfaction to the shipping & travelling public; and there has never been any accident at all serious on the northern division since I came with said railway. Trains are only moved on orders from proper authority. The character of the employees is good for sobriety, honesty, promptness, and attention to duty. Day & night watchmen have been regularly kept to guard and protect the property of said railway, and the strictest care & scrutiny observed by all employees of the road in execution of duty. Up to the first of Jan.,
793 1872, we have been able to pay all expenses, & for all repairs. So far as I have seen, every effort has been made by the special agent in charge of the property here for the State of Ala., that is to say, the property of the said railway, to prevent the same from being sold and squandered by a large class of small creditors at this place.

(Signed) H. F. PRICE.

Sworn to & subscribed before me the 26th day June, 1872.

J. M. JOHNSON,
U. S. Commissioner, Dist. East Tenn.

Filed July 5th, 1872.

N. W. TRIMBLE, *Clerk.*

794 Circuit court of the United States, southern district of Alabama.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees, *vs.* THE ALABAMA & CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippett, & Daniel N. Stanton, and others.	On bill for injunction and receiver.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the district of East Tennessee, Lemuel J. Standifer, who, being first duly sworn, deposes and says that I am fifty-four years old, & resided at Gadsden, Etowah County, Alabama; am not a civil engineer by profession; have never been a railroad-contractor, or a railroad-man, and have no experience in railroad matters, or anything whatever to do with them, and know nothing whatever about railroad business; am a lawyer by
795 profession, and in active practice of said profession at my home in Gadsden as aforesaid; have been, as a passenger, over the Ala. & Chatt. R. R. as far south as Birmingham, only twice since Nov., 1871; my return on one of these trips was made in the night. The first trip I made to Birmingham was made in Dec., 1871; & said second trip in the month of June, 1872. On the first said trip the road was or seemed to be, from the motion of the cars, in as good average condition as any of the roads in this country, with the exception of a few miles between Attalla & Springville. On my last trip, in the present month, the road

had been very much improved, & from the easy motion of the cars would pronounce it as pleasant & smooth a road as any that I have ridden over.

(Signed) LEMUEL J. STANDIFER.

Sworn to & subscribed before me the 27th day of June, 1872.

J. M. JOHNSON,
U. S. Commissioner, District East Tenn.

Filed July 5th, 1872.

N. W. TRIMBLE, *Clerk.*

796 United States of America, circuit court of the United States at Mobile.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Alabama and Chattanooga Railway Company, complainants,

vs.

THE ALABAMA AND CHATTANOOGA RAILWAY Company, Lewis Rice, A. C. Lippett, and Daniel N. Stanton, trustees for the holders of the bonds secured by the second mortgage of the Alabama & Chattanooga Railway Company.

I, James C. Wofford, a resident of Cartersville, Georgia, but at present connected with the Alabama and Chattanooga Railway and residing temporarily at Chattanooga, Tenn., being duly sworn, depose and say as follows: I was appointed the 1st day of April, 1872, by William T. Wofford to fill the place of auditor of the Alabama and Chattanooga Railway at Chattanooga, Tennessee, and immediately entered
797 upon the duties of the office, where I have been ever since, at the office at Chattanooga, Tennessee. All accounts against the road under the present administration are properly and regularly audited and a set of books properly kept, to which reference can be had at any time. All monies derived from any and all sources in the operation of the said railway, from freights, from passengers, from expressage, mail, or any other source, have all been properly paid into the hands of the treasurer of the said road, at this place, and the same has only been disbursed on vouchers and accounts properly approved and audited, and thus a full exhibit can be made of all receipts and disbursements of money. A considerable amount has been paid out to keep up the track and to make the necessary repairs since I came here, as will be shown by the books in my office. All repairs have been promptly and properly
798 made on all property. There is sufficient force at work with construction train and on track and on superstructure to keep the road and road-bed in proper and good repair, and they have all the necessary tools and facilities for such; most of such tools were furnished by the present authorities of the said road. The said road is in far better condition from Chattanooga to Attalla, Alabama, than when I first came here, on the first day of April as aforesaid, and a proper economy has been exercised in the use of all supplies and property of the said railway company. None of them have been wasted or squan-

dered by any agent or employee. Day and night watchmen are kept constantly to look after, to guard, and protect the property of said railway from injury of any kind, and every care has been taken and caution observed to preserve the same from injury. There has been, nor could there be, under the vigilance exercised as aforesaid, no deterioration of the value of the road, or any of the property, except the
799 natural wear and *tare* of the same by the constant daily use of the same. Everything is kept repaired in first-class order, and I regard the road and property thereof as being in far better condition now than when I came here as aforesaid. Trains are now running regularly through on schedule time, making their due connections, and they are only moved by order from proper authority. The operation of the said railway by the present authorities is giving satisfaction to the shipper and traveller, and the receipts are ample to meet the expenses to the 1st June. The character of the employees is good for sobriety, attention to business, and care for the property in their charge. The conductors make their reports regularly at the end of each and every trip, in a book kept for that purpose in the office at this place.

(S'gn'd) J. C. WOFFORD.

Sworn to and subscribed before me this 26th day of June, 1872.

(S'gn'd) J. M. JOHNSON,
U. S. Commissioner, Dist. East Tenn.

Filed July 5th, 1872.

N. W. TRIMBLE, *Clerk.*

800 UNITED STATES OF AMERICA:

Circuit court of the United States for the southern district of Alabama.
In equity. At Mobile, Alabama.

SETH ADAMS, FRANCIS B. LOOMIS, & JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Alabama and Chattanooga Railway Company, complainants,

vs.

THE ALABAMA AND CHATTANOOGA RAILWAY Company, Lewis Rice, A. C. Lippett, and Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage on the Alabama & Chattanooga Railway Co., defendants.

I, Norborne Page, a resident and citizen of Chattanooga, in the county of Hamilton, State of Tennessee, after being duly sworn, depose and say that I am forty years of age; that I am a member of the firm of R. L. Watkins & Co., of said city of Chattanooga. We commenced business here in August, 1870. Our business was then, and is now,
801 that of wholesale and retail hardware-merchants. At that time the mines were in possession of T. C. Severance as agent for the owner of the Eurek' coal-mines, which are situated in DeKalb County, Alabama. He held the mines as the agent for the owner of the mines. It was generally believed that he or his wife were the owners of the mines, and the reason that he acted simply as agent was to shield himself from any trouble which might arise from financial difficulties else-

where. He continued to hold said mines as agent from the time we came, on 1st August, 1870, until about 1st May, 1871, just before J. C. Stanton collapsed. At that time T. C. Severance, as agent, was largely indebted to us; and it having come to our knowledge that he was about to secretly *to* transfer the property—the mines proper and the property there—to J. C. Stanton or the Alabama and Chattanooga Railroad Company, we promptly sent an attorney down to the Eureka coal-
802 mines, in DeKalb County, Alabama, and attached a lot of mules and track-scales and slack-coal as the property of T. C. Severance. The mules and scales were sold to satisfy our claim, which was five hundred and fifty dollars. The slack-coal was not sold, as the other property was sufficient to pay our debt. The transfer was made by T. C. Severance to J. C. Stanton on the day following the information on which I acted. This was about the 1st of May, 1871. J. C. Stanton told me about the day or day after that the Eureka mines had been transfer'ed to him by T. C. Severance. He wanted me to lift the attachment off the property and allow him to substitute some other security, which I refused. We are one of the largest shippers over the Alabama and Chattanooga Railroad in Chattanooga. We ship general merchandise. Under its present management of General Wofford our shipments
803 are promptly made, and give satisfaction. In the last two we have heard no complaints from any of our customers in Alabama. We have a large trade in the State of Alabama and along the line of this road, and our shipments are large and constant over this road. The property at the Eureka mines was sold and made way with after Stanton ceased running the road, by various attachments, or other causes.

(S'gu'd) NORBORNE PAGE.

Sworn to and subscribed before me this 28th day of June, 1872.
[SEAL.] J. M. JOHNSON,
U. S. Commissioner, Dist. East Tenn.

Filed July 5th, 1872.
N. W. TRIMBLE, *Clerk.*

UNITED STATES OF AMERICA:

In the United States circuit court in the southern district of Alabama, at Mobile.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the
804 bonds secured by the *the* first mortgage of the Alabama and Chattanooga Railway Company, complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILWAY Company, Lewis Rice, A. C. Lippett, and Daniel N. Stanton, trustees for the holders of the bonds secured by the second mortgage of the Alabama & Chattanooga Railway Company.

I, William C. Hodges, a resident of Rome, Georgia, after being duly sworn, deposes and says: That I am the agent of the Vulcan Iron-Works, Chattanooga, Tennessee, and it is my duty to purchase old and scrap iron or any other kind of iron required for the use of the Vulcan Iron-Works. I was on the line of the Alabama and Chattanooga Rail-

way while it was under the control and management of one John C. Stanton. On the 18th day of May, 1871, I started over the said railway for the purpose of getting up all the surplus fish-bars and
805 bolts on the line of said railway, by instructions from the said Vulcan Works, and by permission of John C. Stanton, for the purpose of shipping said fish-bars and bolts to the said Vulcan Iron-Works. I had letters and passes from John C. Stanton and from Robert Crevath, who was at that time an officer of said railway.

The letter referred to contained instructions to the supervisor of said railway to turn over the same to me. I went to Meridian, Mississippi, on the business aforesaid. I found from Tuscaloosa down to Meridian large quantities of bolts and fish-bars as aforesaid, and had them loaded on cars and shipped them to the said Vulcan Works, at Chattanooga, Tennessee. There were between sixteen and eighteen car-loads of the said fish-bars and bolts. I do not think there was any freight charged on the same by the said railway, at least none that I ever saw or heard of. I got one car-load of fish-bars and bolts at Meridian, Missis-
806 sippi; nearly two car-loads near Toomsuba, Mississippi; a large quantity at Jones's Bluff, and a quantity; say one car-load and a half, between Jones's Bluff and Boliger; a large quantity near Eutaw, Alabama; a quantity at Carthage, and a large quantity between Carthage and Tuscaloosa, (do not remember the exact quantity,) all this on the line of the said railway, and a quantity at Tuscaloosa, Alabama, with some few barrels of bolts at other places on the line of said railway.

The above-described lots of bolts and fish-bars embraced what I got also in the month of July, when I went down the line of said railway again, with a pass from W. I. Ross, the assistant superintendent of the said railway. I left Chattanooga on the last trip as aforesaid on the 5th day of July, 1871. The trains were then running to Tuscaloosa irregularly. I saw a lot of railroad-iron on the line of said railway at Attalla, Alabama. It was a good large quantity—several car-
807 loads—I don't know how much. In the month of June I loaded two cars with fish-plates and bolts at the depot of the said railway in the city of Chattanooga, and took the same to the Vulcan Works. I did not get all the fish-plates and bolts on the line of the said railway, but left a quantity of it at Jones's Bluff by the request of the supervisor of the said railway.

I have been down the line of said railway several times since July, 1871, as aforesaid, in the same business as aforesaid, getting up iron for the said Vulcan Works, and have ever had every facility and assistance offered and rendered me in the furtherance of my business and in the shipment of freights. I was down the line of said railway as far as Meridian, Mississippi, on the 14th of June instant, and noticed the same pile of fish-plate that I left there as aforesaid, now almost a year ago. It seemed to be the same and did not seem to have de-
808 creased in bulk but very little, if any. As far as I saw, the said Alabama and Chattanooga Railway was in as good condition when I was down on the 14th June instant as it was when I was down on the line of the same, now a year ago as aforesaid, and every accommodation offered me and facility afforded by the officers and employees for the transaction of my business. When I was down the line of said railway in June, 1871, as aforesaid, I collected about one car-load of fish-plates & bolts between Eutaw and Jones' Bluff on the line of said railway as aforesaid. I left them on the side of the road, intending to get them on my return. I then returned in the following month, (July,

1871,) about three weeks thereafter, and they were not there; they having been removed during my absence, without my authority or knowledge, and I did not find the same. At that time there was a mob of disaffected, striking employees in the charge of said railway. All this was before the State of Alabama took possession of said railway,
809 and the disaffection and trouble arising from the mob, as aforesaid, while John C. Stanton had control of said railway. On the day the said railway stopped running, (in June, 1871,) about three miles below Jones' Bluff, I was there with a train gathering up fish-bars and bolts above mentioned, and I saw a train from the East Tennessee & Virginia Railway loading new railroad-iron—a train consisting of between ten and fifteen flat-cars. They were loaded there and I saw it. They took the hands that I had at work with me to load their train, and when they finished loading the same I saw the said train move off in the direction of Chattanooga, Tennessee, carrying the new railroad-iron as aforesaid. John C. Stanton telegraphed to the conductor of the train that I had working for me, getting up the fish-bars, bolts, &c., as above stated, and told him to load the said train with the said railroad-iron.

(S'gn'd) W. C. HODGES.

810 Sworn to and subscribed before me this 29th day of June, 1872.

(S'gn'd) J. M. JOHNSON,
U. S. Commissioner, Dist. East Ten".

Filed July 5th, 1872, at 9 a. m.

N. W. TRIMBLE, *Clerk.*

UNITED STATES OF AMERICA:

In the United States circuit court in the southern district of Alabama, at Mobile. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. STANTON, trustees, &c., complainants,
vs.
THE ALABAMA & CHATTANOOGA RAILWAY Company, Lewis Rice, A. C. Lippett, and Daniel N. Stanton, trustees et al., defendants.

I, General M. King, a citizen and resident of Chattanooga, *a citizen and resident of Chattanooga*, in the county of Hamilton, State of Tennessee, after first being duly sworn, deposes and says as follows: I am thirty-seven years of age; my business is that of road-master on the Alabama and Chattanooga Railroad; appointed to that place
811 about the 20th day of May, 1872, by Genl. W. T. Wofford, receiver. I had previously been connected with said railroad from the time that General Wofford came into possession of it, in the capacity of yard-master and also road-master. Genl. Wofford got possession of said road about the 6th Nov., 1871. I had been connected with said road from the time that J. C. Stanton commenced work on the Alabama and Chattanooga Railroad nearly up to the time when he stopped work, which was in June, 1871. I laid the first bar of iron on the Alabama and Chattanooga Railroad when it was taken charge of by J. C. Stanton. I worked for a while in laying iron, and was then put to surfacing, filling up, and getting the road into fix for the trains. The track was

laid in first-rate order and the iron used, at least so far as I saw and worked on it, what is commonly called fish-bar iron. I afterwards worked in the yard at Chattanooga, helped lay the switches at that place and helped grade on various occasions. At the time Stan-
812 ton stopped running the road, in June, I had not been working for him for some time, six or eight weeks or about three months. At the time I was put in charge of the yard by General Wofford the tracks were in a tolerable rough condition. I was ordered and did set about putting the switches and road-bed in good condition, and they are now in good condition, a great deal better shape than they were in before. I had charge of the picks and shovels and track-tools used at the yard in Chattanooga, and they were well taken care of and preserved and are in good fix now. They are sufficient to keep the yard in good order. About the 18th or 20th May, 1872, I was put on the road by General Wofford, receiver, as road-master, I went up and down the road and saw that the track-men were at work doing their duty. The road I found to be needing some repairs, as all railroads usually do need every day. There is a force at work on every section sufficient to keep the road in running order. My inspections and charge of
813 said road as road-master extend to Birmingham, Alabama, 144 miles below Chattanooga, Tenn. The general condition of the road as far as Birmingham is tolerably fair, sufficient for the work which is being done over it. The men under my employment as road-master are all safe, reliable, and hard-working men. I never employ any other than a sober man, if I know it.

(S'gn'd) G. M. KING.

Sworn to and subscribed before me this 28th day of June. 1872.

(S'gn'd) J. M. JOHNSON,
U. S. Commissioner Dist. East Tenn.

Filed July 5th, 1872.

(S'gn'd) N. W. TRIMBLE, *Clerk.*

The circuit of the United States, (in equity,) southern district Alabama, at Mobile.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. STANTON, trustees for the holders of the bonds secured by the first mortgage of the Alabama and Chattanooga Railroad Company, complainants,

vs.

THE ALABAMA AND CHATTANOOGA RAIL-
814 road Company, Lewis Rice, A. C. Lippett, and Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chattanooga Railroad Company, with others, defendants.

I, Reuben T. Thom, a resident citizen of the city of Montgomery, in the State of Alabama, being first duly sworn, deposes and says, that in the year 1871 this deponent and Commodore E. Farrand were appointed by his excellency, R. B. Lindsey, governor of the State of Alabama, commissioners to examine and report upon the condition of the Alabama and

Chattanooga Railroad and other railroads in said State, under and by virtue of an act of the legislature of Alabama approved February 21st, 1870, and entitled "An act to furnish the aid and credit of the State for the purpose of expediting the construction of railroads within the State;" that in pursuance of said appointment this deponent and the said other commissioner made a careful and thorough examination and inspection of that portion of the Alabama and Chattanooga Railroad
815 between Meridian in the State of Mississippi, and the northern limit or State line of Alabama at the point where said railroad passes out of Alabama into the State of Georgia; that this examination was made about six weeks or thereabouts after the portion of said railroad above described went into possession of J. H. Gindrat, as receiver of the same, under the appointment of the governor of Alabama; that said commissioner, in making said examination, declined the use of an engine to transport them over said road and went over the line of the same in a hand-car in order to make a more perfect examination; that they were occupied for fourteen days or thereabouts in traversing the portion of said road above described and in making said examination; that they carefully and minutely inspected the road-bed and superstructure, rails, cross-ties, culverts, and bridges on said road, and made as careful an examination of the road as could be done short of an instrumental survey; that at that time the said railroad had been completed so as to
816 admit of the passage of through trains for some four months or thereabouts; that said railroad was not then, and this deponent is and was satisfied from the examination then made, that said railroad never had been in good order and condition; that the construction of the same was imperfect and defective *and* the following-described portions of said road and in the following particulars, viz:

(1.) On twenty-four of the twenty-seven miles from Meridian to York the iron was light, weighing less than fifty (50) pounds to the yard, was badly kinked from having been burned and was worn out. The cross-ties were rotten and mashed up; the culverts were of wood and were some of them falling in; and the bridges and trestles were old and were kept safe only by constant repairs.

This deponent then estimated and believed and is still of the opinion that it would have required the sum of one hundred and forty-one thousand dollars, over and above the value of the old iron then on the track, to put said twenty-seven miles in good condition, and that in addition thereto, it
817 would have required the sum of about $45,000.00 to filling the temporary trestles near Red Gap. (2nd.) On the forty-five miles between York Station and Akron Station the cross-ties were generally of sapling pines, and about one-fourth of the same were rotten and required to be replaced. (3rd.) On the twenty-five miles from Akron Station to Tuscaloosa the road-bed was through a prairie district, and would require frequent filling and draining for some years. On this portion of said road were numerous temporary bridges and trestles, measuring in all fifteen thousand seven hundred and seventy-five feet, (engineer's measurement,) constructed of pine poles with the bark on, and in a rotten condition. None of these trestles or bridges could have lasted beyond six or eight months, and most of them would have been dangerous at that time but for the careful watching and constant repair of the same by the working-parties of the said receiver, J. H. Gindrat. This deponent saw and observed said working-parties constantly employed
818 in removing the rotten poles in said bridges and trestles and replacing them with sound ones and bracing the weak places. The building and repair of the trestles on said twenty-five miles would have

required about one hundred and seven thousand dollars according to the estimate of this deponent. (4.) Between the 170th and 185th mile-post south from Chattanooga were nine miles of temporary road; that is the track was diverted from the original and established survey at different points along this fifteen miles of road to avoid deep excavations and heavy embankments by winding around the excavations and depressions of the adopted line. On these nine miles the curves were in many places too sharp and the grades too heavy for the safe and efficient working of the road. At different places on the permanent survey excavations and embankments had been commenced which would be available on establishing the road on the proper line. This deponent estimates the costs of completing the grading on said nine miles, and moving and laying the rails and cross-ties, at one hundred and eighty thousand dollars.

819 And this deponent says that at the time of said examination he noticed a large amount of new work done and being done at various points on the road-bed and trestles, beyond the ordinary repairs of a finished road, and on referring to the books of the superintendent under said receiver, he ascertained that from the 11th day of August, to the 31st September, 1871, the following amounts had been expended for permanent work on said road:

From 11th to 31st August, inclusive:	
" " " " finishing road-bed	4,608 94
" " " " work on trestles	1,150 34
From 1st to 30th September:	
" " " finishing road-bed	6,667 04
" " " work on trestles	1,127 42
	$13,553 74

From careful examination and estimate made as aforesaid, this deponent estimates that at the time said receiver went into possession of said road it would have required an expenditure of over five hundred thousand dollars to put the same in good running order, in addition to the current repairs and improvements, as follows:

820 To complete road from Meridian to York station	$141,200 00
To replace ¼ of the ties from York to Akron, forty miles	11,250 00
To replace temporary trestles between Akron & Tuscaloosa, (15,775 feet)	107,000 00
To fill trestles near Red Gap, temporary, and to be filled	55,000 00
To complete nine miles of road between 170th & 185th mile-posts, moving and laying the rails & ties from temporary to the permanent road-bed	180,000 00
To amount already then expended by receiver	13,553 74
	$508,003 74

And this deponent says that at that time the greater part of the engines and rolling-stock of said road had been withdrawn from the line and run off into Georgia and Tennessee; and the rolling-stock, outfit, and equipment in the possession and control of the said receiver were entirely insufficient to enable him to run the road efficiently. That at that time said road was the subject of litigation; there were a large number of employees along the line of said road whose wages re-

821 mained unpaid, and who were unfriendly to the running of said road, and who threatened to interfere, and did sometimes forcibly interfere with the running of the trains on said road; and in the opinion of this deponent, at the time of said examination the said road was being managed and conducted with unusual efficiency and success, considering the difficulties aforesaid by which the said receiver was surrounded.

(S'gn'd) REUBEN T. THOM.

Sworn to and subscribed before me by the said Reuben T. Thom, who is known to me, on this the 19th day of June, A. D. 1872.

(S'gn'd) W. P. EVANS,
U. S. Commissioner for the Southern District of the State of Mississippi.

Filed June 20th, 1872.

(S'gn'd) N. W. TRIMBLE, *Clerk.*

822 BB.

Transcript of the original bill and application for injunction from chancery court at Chattanooga, Tenn.

To the honorable D. M. Key, chancellor presiding at Chattanooga, in Hamilton County, Tennessee:

Your orater, the State of Alabama, respectfully shows and represents unto your honor that on the 19th day of December, 1868, the Alabama and Chattanooga Railway Company, a corporation existing in the State of Mississippi, Alabama, Georgia, and Tennessee, and having an office and agents at Chattanooga, did, through its properly authorized officers, execute to Seth Adams, Francis Dane, and John Demeritt, trustees, a mortgage or trust-deed, by the provisions whereof the entire railroad line of said company, extending from Chattanooga, in Tennessee, through Dade County, Georgia, and through the State of Alabama, to Meridian, in the State of Mississippi, together with all the equipments, tenements, buildings, fixtures, machinery, goods, and chattels used in operating said road or appurtenant thereto, rails, ties, fencings, and erections, cars, tools, engines, structures, and all other personal
823 property of every kind belonging to said company in connection with said road, was conveyed to said trustees, their successors and assigns, in order to secure and protect your orator from loss by reason of your orator's endorsement of the bonds of said company to the amount of sixteen thousand dollars per mile for the whole length of said railroad. A copy of said mortgage marked "Exhibit A" is hereto annexed and prayed to be taken as part of this bill, (it need not be copied.) Said mortgage was on the sixteenth day of December, 1868, recorded in the register's office of Hamilton County, Tennessee, in book S, at page 212 *et sequiter*.

Your orator further represents and shows unto your honor that the said company did execute its bonds, called first-mortgage bonds, to the amount of 4,720,000, and that said bonds were endorsed by your orator, whereby the property conveyed to trustees aforesaid become legally pledged and bound according to the provisions of said mortgage, to your orator, as protection against the said endorsement. Said bonds were for the sum of $1,000 each. A copy of one of said bonds is annexed hereto marked "Exhibit B."

824 Your orator further represents and shows unto your honor that on the 31st August, 1871, your orator filed in your honor's court

a bill alleging that the interest upon the aforesaid bonds had not been paid by said company as the same had become due, by reason whereon your orator, as endorser upon said bonds, had been compelled to pay interest upon said bonds to the amount of 548,474.23. Your orator in said bill prayed a foreclosure of said mortgage aforesaid, and asked that pending the suit a receiver might be appointed by your honor to take custody and control of the property conveyed by said mortgage. Reference is hereby made to said bill and exhibits hereto, for a more particular knowledge of its contents and objects, and your orator prays that this bill may be united with the aforesaid bill, and that the suits may be consolidated and heard together, and that all the exhibit' and papers filed in your orator's suit aforesaid may be considered as filed in this case, and that all the allegations and statements contained
825 in your orator's bill aforesaid may be adopted and considered as made in this bill, so far as the same may be necessary for the attainment of the relief sought and prayed for in this bill.

Your orator further shows unto your honor that in the bill heretofore filed in this court aforesaid it was represented unto your honor that the property belonging to said company in Hamilton County, Tennessee, had been attached by the creditors of said company and impounded in your honor's court. At the time the said bill was drawn it was represented to your orator, and by your orator believed, that all of the property of the said company in said county of Hamilton had been attached by the creditors of said company and *and* impounded in your honor's court; and upon the hearing of the application for the appointment of a receiver, it was stated to your honor by counsel that the whole of said property had been so attached.

Your orator further represents unto your honor that, by an
826 order of your honor, the property of said company, which had been attached and impounded as aforesaid in your honor's court, was, on the 8th day of September, 1871, ordered to be turned over to J. H. Gindrat, as receiver, a copy of which order is hereto annexed, to which reference is made for its contents.

Your orator further represents unto your honor that since the order appointing a receiver was made it has come to the knowledge of your orator that all of the property of said company in Hamilton County covered by the said mortgage was not (according to representations now made to your orator) attached and impounded in your honor's court, and all of it was not, therefore, embraced in the order appointing a receiver as aforesaid. The property which is represented to your orator as not having been turned over to the said receiver is situated in the city of Chattanooga, and consists of a large lot of brass, steel, varnish, oils, paints, nails, car-wheels, fixtures, and material for mak-
827 ing and repairing cars and engines, plank and lumber used in the erection of the depot-shed, and other plank and lumber around the depot of said company, and a large amount of goods, wares, and merchandise in the store-house of said company, called the supply-store. All of said property is included in the mortgage as aforesaid. Upon this property a large number of executions and attachments, sued out of the office of A. A. Pearson, W. T. Cate, and A. J. Flowers, justices of the peace for Hamilton County, at the suit of creditors of said company, have been levied by T. W. Raulston, T. M. Gardenhier, and Morgan Fryar, constable for said county of Hamilton; and said constables now claim to hold the said property under the levy of said executions and attachments. The said constable, Morgan Fryar, has advertized said property, or the greater part thereof, to be sold on the 19th day

of September instant, for the satisfaction of the executions and
828 attachments in his hands; and your orator is informed that the other constable aforesaid intend to proceed to sell such of the said property as may not be sold by said Fryar for the satisfaction of the executions and attachments in their hands. Said property is represented to be worth as much as three thousand dollars. Among the executions in the hands of said Constable Fryar which have been levied upon said property is one for $243.99 in favor of Francis Hughes; one in favor of Hughes & Gottschalk for $229.77; one in favor of James Gottschalk for $162.40; all sued out of the office of said W. T. Cate, justice of the peace as aforesaid, upon judgments rendered on the 9th day of September, 1871.

Among the attachments in the hands of Constable F. W. Raulston is one for $250 in favor of J. M. Southard, and one for $250 in favor of D. H. Murphy, sued out of the office of A. A. Pearson, justice of the peace as aforesaid, and levied on said property, the first on the 25th
829 day of July, and the other on the 27th of July, 1871.

Among the executions in the hands of Constable F. M. Gardenheir is one in favor of C. L. Foster for $255.85, and one in favor of W. F. Stewart for $459.88, upon judgments rendered by A. A. Pearson, justice of the peace as aforesaid, on the 19th day of July, 1871, and levied on the said property on the 27th day of July, 1871.

Besides the executions and attachments enumerated above there are numerous others in the hands of said constables which your orator does not deem it necessary to refer to.

Your orator is not advised whether the property herein referred to was attached and impounded in your honor's court, or whether it is true, as represented and contended by said constables, that the same was not embraced in the property so impounded; in either case your orator represents that said property, being covered by said mortgage,
830 is not liable for the debts of said company, and is not subject to the levy of the executions and attachments aforesaid, and said property should be placed in the hands of the receiver appointed by your honor on the 8th day of September as aforesaid, and by said receiver held until the determination of the suit instituted in your honor's court to foreclose the said mortgage, and the said constable and all other persons should be enjoined from selling or removing said property until the same is so turned over to said receiver.

In consideration of the premises, your orator, who is without remedy save in a court of chancery, prays that the said Alabama and Chattanooga Railway Company, the trustee in said mortgage, the said Raulston, Gardenheir, and Fryar, constables as aforesaid, may be parties respondent to this bill by proper process, and required to
831 answer the same; that said constables be enjoined from selling any of the property, or any other effects of the Alabama and Chattanooga Railway Company, in Hamilton County, Tennessee, by virtue of any executions and attachments in their hands, and from removing or interfering in any manner with the same, until the further order of this court; that said justices be enjoined from issuing any executions and attachments against the effects of said company until the further order of this court; that the property levied upon by said constables, by virtue of the said executions and attachments in their hands, may be turned over to the said receiver appointed by your honor on the 8th day of September, 1871, and by him held in the same manner as the property heretofore turned over to him; that all proper process, writs, and mandate may issue, and that all such other and further relief,

special and general, may be granted your orator as the nature of
832 his case may require and to equity may seem meet; and your orator, as in duty bound, will ever pray, &c.

This is the first application for an injunction in this case.

(Signed) MARYE & BRAUNER,
Solicitors for Complt.

STATE OF TENNESSEE,
Bradley County, to wit:

Lawrence S. Marye, agent and attorney for the complainant in the foregoing bill, personally appeared and made oath that the facts and allegations therein as made of his own knowledge and knowledge of complainant are true, and those stated upon information and belief are true to the best of his belief.

(Signed) LAWRENCE S. MARYE.

Sworn to and subscribed before me this 18th September, 1871.
W. H. McKANY, *C. & M.*

833 The State of Tennessee to the master in chancery for Hamilton County.

File this bill, issue process as prayed, upon complainant entering into the usual bond for cost, and an injunction-bond in the penalty of six thousand dollars, with good security on the bond. No further is now made nor action directed in relation to the property, the sale of which is hereby enjoined.

JOHN B. HOYLE, [SEAL.]
Judge, &c.

SEPTEMBER 18TH, 1871.

STATE OF TENNESSEE:

THE STATE OF ALABAMA *vs.* THE ALA. & CHATT. R. R. Co., T. W. RAULSton, et al.	Chancery court of Hamilton County.

Be it remembered that, on the 13th day of January, 187?, this cause came on for further action before Chancellor Key, upon motion
834 of John B. Weaver, security on the injunction and prosecution bonds given in the cause for the issuance of the injunction in the cause under the fiat of the honorable John B. Hoyle, judge, &c., dated 18th September, 1871, upon the petition of complt. filed in this cause on the 19th Sept., 1871, enjoining the sale of certain property therein mentioned, under *of sale of said property therein mentioned, and* executions then in the hands of T. W. Raulston & Morgan Fryar, constables, &c., in favor of the various parties in said petition or bill mentioned, based upon notice duly given and served in pursuance to an act of assembly in such cases made and provided, requiring the petitioner or complainant to appear before the chancellor in open court on Jan. 12th, 1872, and give other and sufficient counter-surety or his suit would be dismissed; which motion was duly entered of record on yesterday, 12th Jan., 1872; and it appearing that said motion was duly served on the 2d day of Jan., 1872, and is now on file in this cause; and it
835 further appearing that the petitioner or complainant has wholly failed to appear and give such counter-security as required by law:

It is therefore decreed by the court that, unless the State of Alabama appear and give sufficient counter-security to indemnify the said surety, J. B. Weaver, against all costs and damages as such surety on said bonds, on or before the 19th day of June, 1872, inclusive, the complainant's said petition in this cause, under which said injunction was granted, be dismissed, and injunction dissolved, and procedendo be and shall be awarded to said justices of the peace, and Constables Raulston and Fryar, to proceed to the sale of said property enjoined and collection of said debts, as if no injunction had been issued in the cause. And it is further decreed by the chancellor that complainant and said surety, J. B. Weaver, pay all the costs incident to said petition and proceedings thereunder; for all which execution may issue, unless counter-surety be given as required.

I certify that the foregoing is a correct transcript of a decree rendered by said court in said cause, 13th January, 1872, and that said counter-security was not given as required.

This the 2d February, 1872.

J. A. CALDWELL, *C. & M.*

Filed July 5, 1872.

N. W. TRIMBLE, *Clerk.*

836 CC.

STATE OF TENNESSEE:

Chancery court at Chattanooga.

Replevin bond.

Know all men by these presents that we, W. R. Carlile, agent for Henry E. Waite, and J. P. Wilkinson, are held and firmly bound unto James A. Caldwell, clerk and master of the chancery court at Chattanooga, Tennessee, for the use of the parties as they may be entitled in the consolidation causes, The State of Alabama vs. The Alabama and Chattanooga Railroad Company et als., in the just and full sum of one hundred dollars, for the payment of which, well and truly to be made,

837 we and each of us bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents, signed with our hands and dated this 4th day of May, 1872.

The condition of the above obligation is such that, whereas the said W. R. Carlisle, agent for Henry Waite, lately filed his certain application in the chancery court at Chattanooga, in said causes now pending in said court, alleging therein amongst other things, that the said W. R. Carlile, agent for Henry E. Waite, is the owner of one single office desk and chair, now in possession of J. H. Gindrat, receiver in said causes, valued at fifty dollars, and by order of said court, the said W.

838 R. Carlile, agent for H. E. Waite, may take possession of said property, one single office desk and chair, of the value of fifty dollars, upon the execution of a bond conditioned, that if said desk and chair shall be decreed to be the property of the said Alabama and Chattanooga Railroad Company, or shall be decreed not to be the property of said W. R. Carlile, agent for Henry Waite, then that said W. R. Carlile, agent for H. E. Waite, shall return or account for the value of said property, and shall abide by and perform such future orders and decrees of said court as may be made touching said property, and said W. R. Carlile, agent for H. E. Waite, being desirous of taking posses-

sion of said property, executes this bond in accordance with said orders of said court:

839 Now, therefore, if the said W. R. Carlile, agent for H. E. Waite shall comply with the orders of said court in the premises and pay all costs, or return, or pay the value of, said property so taken possession of by him, with all interest thereon, if said court shall so decree, or so much thereof as said court shall order and decree, then the above obligation to be void; otherwise to remain in full force and effect.

W. R. CARLILE, [SEAL.]
Agent for HENRY E. WAITE. [SEAL.]
J. W. WILKINSON. [SEAL.]

Filed 4th day May, 1872.

J. A. CALDWELL, *C. & M.*

840 *Replevin bond.*

STATE OF TENNESSEE:

Chancery court at Chattanooga.

Know all men by these presents that we, W. R. Carlile and J. P. Wilkinson, are held and firmly bound unto James A. Caldwell, clerk and master of the chancery court at Chattanooga, Tennessee, for the use of the parties as they may be entitled in the consolidated causes, The State of Alabama vs. The Alabama and Chattanooga Railroad Company et als., in the just and full sum of one hundred dollars, for the payment of which, well and truly to be made, we and each of us bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly

841 by these presents, signed with our hands and dated this 4th day of May, 1872.

The condition of the above obligation is that, whereas the said W. R. Carlile lately filed his certain application in the chancery court at Chattanooga, in said causes now pending in said court, alleging therein, amongst other things, that the said W. R. Carlile is the owner of one single office desk and chair now in possession of J. H. Gindrat, receiver in said causes, valued at fifty dollars, and by order of said court, the said W. R. Carlile may take possession of said property of the following description, to wit, one single office desk and chair of the value of fifty dollars, upon the execution of a bond, conditioned

842 that if said desk and chair shall be decreed to be the property of the said Alabama and Chattanooga Railroad Company, or shall be decreed not to be the property of W. R. Carlile, then that said W. R. Carlile shall return or account for the value of said property, and shall abide by and perform such future orders and decrees of said court as may be made touching said property, and said W. R. Carlile, being desirous of taking possession of said property, executes this bond in accordance with said orders of said court:

Now, therefore, if the said W. R. Carlile shall comply with the orders of said court in the premises, and pay all costs, or return or pay

843 the value of said property so taken possession of by him, with all interest thereon, if said court shall so decree, or so much thereof as said court shall order and decree, then the above obligation to be void; otherwise to remain in full force and effect.

W. R. CARLILE & [SEAL.]
J. P. WILKINSON. [SEAL.]

Filed 4th day of May, 1872.

J. A. CALDWELL, *C. & M.*

844 *Replevin bond.*

STATE OF TENNESSEE:

Chancery court at Chattanooga.

Know all men by these presents that we, Thomas J. Carlile and H. Clay Evans, are held and firmly bound unto James A. Caldwell, clerk and master of the chancery court at Chattanooga, Tennessee, for the use of the parties as they may be entitled in the consolidated causes, The State of Alabama vs. The Alabama and Chattanooga Railroad Company et als., in the just and full sum of three hundred dollars, for the payment of which, well and truly to be made, we and each of us, bind ourselves, our heirs, executors, and administrators, jointly and
845 severally, firmly by these presents, signed with our hands and dated this 4th day of May, 1872.

The condition of the above obligation is such, that whereas the said Thomas J. Carlile lately filed his certain application in the chancery court at Chattanooga in said cause now pending in said court, alleging therein, amongst other things, that the said Thomas J. Carlile is the owner of a desk and chair, now in possession of J. H. Gindrat, receiver in said causes, valued at one hundred and fifty dollars, and by order of said court, the said T. J. Carlile may take possession of said property, one desk and chair of the value of one hundred and fifty dollars, upon the execution of a
846 bond conditioned that if said desk and chair shall be decreed to be the property of the said Alabama and Chattanooga Railroad Company, or shall be decreed not to be the property of said Thomas J. Carlile, then that said T. J. Carlile shall return or account for the value of said property and shall abide by and perform such future orders and decrees of said court as may be made touching said property, and said T. J. Carlile being desirous of taking possession of said property, executes this bond in accordance with said orders of said court:

Now, therefore, if the said T. J. Carlile shall comply with the
847 orders of said court in the premises, and pay all costs, or return or pay the value of said property so taken possession of by him, with all interest thereon if said court shall so decree, or so much thereof as said court shall order and decree, then the above obligation to be void; otherwise to remain in full force and effect.

THOMAS J. CARLILE. [SEAL.]
H. CLAY EVANS. [SEAL.]

Filed 4th day of May, 1872.

J. A. CALDWELL,
C. and M.

848 *Replevin bond.*

STATE OF TENNESSEE:

Chancery court at Chattanooga.

Know all men by these presents, that we, James H. Van Alstin & W. W. Simpson, and J. W. James as surety, are held and firmly bound unto James A. Caldwell, clerk and master chancery court, Chattanooga, Hamilton County, Tennessee, for the use of the parties as they may be entitled, in case State of Alabama vs. Alabama and Chattanooga Railroad Company et als., in the just and full sum of one hundred dollars; for the payment of which, well and truly to be made, we, and each of us,

bind ourselves, our heirs, executors, and administrators, jointly
849 and severally, firmly by these presents, this 4th day of May, 1872.

The condition of the above obligation is such that whereas the above-named J. H. Van Alstin and W. W. Simpson have this day by order of the chancery court taken from the possession of J. H. Gindrat, receiver in above-named cause, the following-described property, viz, one double office-desk and two chairs, and the said Van Alstin and Simpson claims title to the said double office-desk and said two chairs:

Now, therefore, if the said Van Alstin and Simpson shall well and truly deliver said property to the said clerk and master, whenever the same may be directed to be done by order of this court, or in
850 default shall abide by and perform such further orders and decrees of the court having cognizance thereof touching said property, then this obligation to be void; otherwise of full force and virtue.

This May 4th, 1872.

JAMES H. VAN ALSTIN. [SEAL.]
J. W. JAMES. [SEAL.]

Filed May 4th, A. D. 1872.

J. A. CALDWELL,
Clerk and Master.

851 *Replevin bond.*

STATE OF TENNESSEE:

Chancery court at Chattanooga.

Know all men by these presents that we, Thomas J. Carlile, agent for Robert Cravath and H. Z. Chapman, are held and firmly bound unto James A. Caldwell, clerk and master of the chancery court at Chattanooga, Tennessee, for the use of the parties as they may be entitled in the consolidated causes The State of Alabama vs. The Alabama and Chattanooga Railroad Company et als., in the just and full sum of one hundred and fifty dollars; for the payment of which, well and truly to be made, we, and each of us, bind ourselves, our heirs, executors, and
852 administrators, jointly and severally, firmly by these presents, signed with our hands and dated this 4th day of May, 1872.

The condition of the above obligation is such, that whereas the said Thomas J. Carlile, agent for Robert Cravath, lately filed his certain application in the chancery court at Chattanooga in said causes now pending in said court, alleging therein, amongst other things, that the said Robert Cravath is the owner of a desk and chair now in possession of J. H. Gindrat, receiver in said causes, valued at one hundred and fifty dollars, and by order of said court the said T. J. Carlile, agent of
853 Robert Cravath, may take possession of said property, of the following description, to wit, one desk and chair of the value of seventy-five dollars, upon the execution of a bond conditioned that if said desk and chair shall be decreed to be the property of said Alabama and Chattanooga Railroad Company, or shall be decreed not to be the property of said Robert Cravath, then the said Thomas J. Carlile, agent for Robert Cravath, shall return or account for the value of said property, and shall abide by and perform such further orders and decrees of said court as may be made touching said property, and said Thomas J. Carlile, agent of Robert Cravath, being desirous of taking possession of
854 said property, executes this in accordance with said orders of said court:

Now, therefore, if the said Thomas J. Carlile, agent of Robert Cravath, shall comply with the order of said court in the premises, and pay all costs, or return or pay the value of said property so taken possession of by him, with all interest thereon, if said court shall so decree, or so much thereof as said court shall order and decree, then the above obligation to be void; otherwise to remain in full force and effect.

THOS. J. CARLILE, [SEAL.]
Agent for Robert Cravath.
H. Z. CHAPMAN. [SEAL.]

Filed 4th day of May, 1872.

J. A. CALDWELL, *C. & M.*

Filed July 5th, 1872, at 9 a. m.

N. W. TRIMBLE, *Clerk.*

855 D. D.

Petition of J. G. Southard et als.

To the honorable D. M. Key, chancellor, and holding the chancery court at Chattanooga, Tennessee:

STATE OF ALABAMA
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et al.

Your petitioner, J. G. Southard and G. W. Warner, citizens of Chattanooga and State of Tennessee, in their own right and in behalf of all the other creditors of the Alabama and Chattanooga Railroad by judgments at law and attachments on which judgments have been obtained and executions and order of sale issued, whose names and the amounts respectively due them more fully appears by Exhibit A to this petition, which exhibit is prayed to be taken as a part of this petition, and by the original executions in their favor against the Alabama and
856 Chattanooga Railroad, which executions will be shown to your honor when desired, respectfully state to your honor that, as recited above, that they recovered judgments to a large amount against the Alabama and Chattanooga Railroad Company before the date of the filing of the petition of W. A. C. Jones against the said Alabama and Chattanooga Railroad in bankruptcy; that said executions were levied upon a large lot of cars, car wheels, paints, varnish, and other things belonging to the said railroad company, and the property advertised for sale; that the sale has been two or three times enjoined, first by the State of Alabama, then by John C. Stanton, and again by John H. Gindrat, an officer of this court. Petitioners state, as your honor well knows, that at the last term of your honor's court the
857 property was taken out of the hands of G. W. Rawlston, F. M. Gardenhier, and Morgan Fryar, and an order made to separate the property mentioned in the returns on the executions referred to from the other property held by John H. Gindrat as receiver of your honor's court, and to place the same in the hands of J. A. Caldwell, clerk of your honor's court, subject to the litigation in the above-entitled cause, which, as petitioners affirm, may be long and tedious. Petitioners charge that all or much of said property is perishable and liable to great waste, that the expense of guarding the property in its present locality is very great, that there is no insurance upon the same and no money where-

with to insure it; that the buildings containing the varnish and other inflammable materials have a great roof surface, and are in great
858 danger from fire by sparks from engines, of which about two hundred pass daily; that no responsible insurance company would take the great risk, except at very high rates; that the property is very inconvenient to move, that much of it has been wasted or stolen since your petitioners' executions were levied upon the same; that the articles as they now stand will bring a good price since your petitioners must all be satisfied from it, but aver that by the time the merits of the cause is decided there will be nothing left but the empty carcass of a lawsuit, and that the complainant in the above-entitled cause cannot be reached by executions from this court even for the cost.

Premises considered, your complainants pray that the property mentioned in the returns of the executions referred to, be sold and the proceeds placed in the hands of the clerk and master of this court,
859 subject to the litigation between the parties to the above-entitled cause; that upon reasonable notice to the parties interested the above prayer be granted. As in duty bound, your complainants will ever pray.

D. C. TREWHIT AND
I. P. SYKES,
J. J. McGLOHON,
Solicitors for
TREWHIT AND SHARP,
Solicitors.

Filed 13th May, 1872.

EXHIBIT.

Decree at Chambers.

STATE OF ALABAMA
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.,
and
JOHN C. STANTON
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

860 Be it remembered that on this the 17th day of May, 1872, these causes came on for further order before Chancellor Key, at Chambers, at the court-house in Chattanooga, Hamilton County, Tennessee, upon the matters and things involved in the petition filed in these causes by J. G. Southard, for himself and on behalf of various other creditors of the Alabama and Chattanooga Railroad Company, on 13th day of May, 1872, praying for a sale of the property attached and levied on in these causes, in what is known as the "supply store," in the city of Chattanooga, Hamilton County, Tennessee, and at other places, and other properties attached by said State of Alabama as property of the Alabama and Chattanooga Railway Company, and by creditors of said railway company, and involved in litigation in these causes in the chancery court of Hamilton County, Tennessee, and for a minute de-
861 scription of all which property and names of creditors attaching and levying upon the same, and praying satisfaction of their

debts out of same, reference is made to the schedule of property filed in the causes, names of creditors on record, and various receipts and reports of the clerk and master and receivers in the cause, of the filing of which said petition and prayer for sale of property due notice has been regularly issued and served upon parties and their solicitors in all the cases involved.

All of such matters and things so involved in said application, being argued by counsel and fully understood by the chancellor, and it appearing to the chancellor that the said properties so attached and levied on and sought to be sold is of such character, description, and value, and so situated that it is constantly subject to pillage, loss, and
862 destruction, as well as much of it to be consumed and materially injured by fire and other accidents, and of constant expense, in guarding and otherwise preserving the same, to a considerable amount, as well as constantly depreciating in value without any hope of appreciating in value; and that the debts of the various creditors are increasing by accumulation of interest, and that the probabilities are that the said properties will not sell at any time for an amount sufficient to pay off the debts of said various creditors; and, upon the whole case, the chancellor being of opinion that it is manifestly to the interest of all the parties claiming interest in the said properties that the same be sold, and the proceeds brought into this court, to abide such orders and decrees as the court may make in the causes touching the rights of creditors to the same:

863 It is, therefore, adjudged and decreed by the chancellor that said properties be sold; that the clerk and master of this court, at his earliest convenience, advertize said properties, so attached and levied on and heretofore referred to, for twenty days in the Times an' Herald, two public newspapers published in the city of Chattanooga, Hamilton County, Tennessee, giving notice of the time, terms, and place of sale, and proceed to and sell the same, upon the premises where situated and being at the time, at public outcry, to the highest bidder, upon a credit until the 15th day of October, 1872, except upon all sums of twenty-five dollars and under, which he will require paid down in cash; and to secure said sum over twenty-five dollars so to be sold on time, the master will take notes bearing interest from date, with two or more good and undoubted securities, either of whom shall be
864 worth the amount of the note. The master will make and report a detailed statement of all articles of property sold, and to whom, and the amount thereof. The master will be the more particular in this, to the end this court may be correctly advised as to credits on account of such sales to be allowed the receiver in these causes, John H. Gindrat. The master will report to next term of this court. He may loan out the money, taking notes with good and sufficient security, approved of by the master, at the best legal rate of interest he can obtain. All questions as to who are entitled to the proceeds of said sale are reserved till the final hearing. This decree will be spread upon the records of the chancery court of Hamilton County, as required by law in such cases.

(Signed) D. M. KEY,
Chancellor.

865 *Order on petition of J. H. Gindrat.*

THE STATE OF ALABAMA
vs.
THE ALABAMA AND CHATTANOOGA RAILWAY Company.

The motion to attach F. W. Rawlston, F. M. Gardenhier, and Morgan Fryar coming on to be heard on the petition of John H. Gindrat, and on the answer of said defendants thereto, on the evidence adduced by the parties, and the court being of opinion that said defendants are not guilty of the contempt alleged, doth order, adjudge, and decree that they be and are hereby discharged. But because it appears to the court that a sale under the executions in defendants' hands will interfere with some of the property attached, under process issuing from this court, and placed in said Gindrat's possession as receiver, which property is involved in this litigation, the court doth order that
866 said Gindrat's petition be filed as a supplement to the original bill in this case, and that defendants suspend the sales under said executions and attachments until the further order of this court; and it is further ordered that the parties deliver the property levied on by defendants to James A. Caldwell, C. and M., who is ordered to keep the same secured separate and apart in the hands of said Gindrat as receiver until the further order of this court. The said execution creditors make themselves parties to this suit and assert any right or claim which they may have to said property or any part of it. The court, however, does not adjudge who is entitled to said property or whether it has been levied on by attachments issuing from this court or placed in possession of said Gindrat, as receiver, by the former orders of this court; but these several matters are expressly reserved to be adjudicated as the right may hereafter appear. If the master deems it necessary, he is authorized to employ an agent or watchman to protect such property and keep it safely to answer such other orders as this court may make in the premises.

Filed May 2nd, 1872.

867 *Petition of W. A. Carr.*

To the honorable D. M. Key, chancellor, presiding in chancery, at Chattanooga, Tennessee:

STATE OF ALABAMA
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

Your petitioner, W. A. Carr, a citizen of Hamilton County, State of Tennessee, respectfully shows unto your honor that he purchased of one W. L. Smith and McEwing a lot of lumber, as he remembers, in the month of April, 1871. Some of the lumber was inferior, but he herewith files a statement of its estimated value, marked "Exhibit A," and made a part of this petition. Said lumber or a portion of it was in what was known as the lumber-yard shed of the Alabama and Chattanooga Railway Company, when the attachment bill of John C.
868 Stanton against the Alabama and Chattanooga Railway Company and others was filed. He is informed that in fact, however, it

was never attached in any of the various suits against said company, but he is informed that parties taking an inventory of property attached in one of said causes included this lumber, and he supposes it is now in the hands of the receiver. He states that in fact belongs to him, and neither the Alabama and Chattanooga Railway Company nor John C. Stanton have any right or interest in the same.

Complainant prays your honor to make an order to allow him to remove said lumber and use the same, upon his entering bond to account for its value in the event it is shown not to belong to him.

(Signed) W. A. CARR.

869 STATE OF TENNESSEE,
Hamilton County:

On this the 11th day of April, 1872, before me, J. A. Caldwell, clerk and master, personally appeared W. A. Car, and made oath in due form of law that the statements made in the foregoing petition are true to the best of his knowledge and belief.

(Signed) W. A. CARR.

Sworn to and subscribed before me the day & date above written.

J. A. CALDWELL, *C. & M.*

EXHIBIT A.

Bought of McEwing 3,500 ft. weather-boarding, @ 17.00 per M..	$59 50
Bought of W. L. Smith 300 ft. ash lumber, rough, @.....	3 00
600 ft. walnut lumber, rough.....	12 00
1,000 " moulding.....	10 00
8 pieces dressed lumber.....	5 00
300 ft. pine, dressed for door-frames.....	6 00
Total.....	$95 50

870 *Order on petition of W. A. Carr.*

THE STATE OF ALABAMA
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company.

This cause came on to be heard on the petition of W. A. Carr, the proof taken upon this much of the cause, and the report of the master made to the present term, which report being unexcepted to, is in all things , and the court being satisfied from said report, the proof in the cause, that 3,500 feet of weather-boarding lumber purchased of W. E. McEwing and Co., and the lumber described in the petition, and the entire lumber mentioned in the petition, estimated to be worth about $95.00, is the property of W. A. Carr, and not the property of the defendants to the suit, and should not have been levied upon nor placed in the hands of the receiver. It is therefore ordered that said lumber described in the petition be delivered to said W. A. Carr, or his agent, and a copy of this order will issue to be served upon the officer or employee who may have charge of the same, and petitioner will pay the costs incident to this petition, for which execution will issue.

APRIL 20th, 1872.

871 *Petition of Jno. H. Gindrat to attach parties for contempt.*

THE STATE OF ALABAMA
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

To the honorable D. M. Key, chancellor, &c., sitting in chancery, at Chattanooga, for Hamilton County, Tennessee:

Your petitioner, John H. Gindrat, complaining, showeth unto your honor that on the 8th day of September, 1871, was, by an order or decree duly and regularly made by your honor, appointed receiver in the suit pending in this court in behalf of Alabama against the Alabama and Chattanooga Railway Company and others, as will more fully appear by reference to the pleading and orders and decrees rendered in said court, to which reference is here made for more certainty. Your petitioner accepted said appointment and executed bond as re-
872 quired by your honor, and entered upon the discharge of the duties assigned him. All the property mentioned and described in said order or decree was, by the clerk and master of this court, turned over and placed in your petitioner's possession as receiver. This first order of the 8th day of September, 1871, directed the master to "turn over and deliver" to your petitioner, as receiver of this court, all the rolling-stock, machinery, and other property of the Alabama and Chattanooga Railway Company, which has (had) been attached by creditors impounded in this court, that may be necessary or useful in operating said railway, as directed by said decree. Certain creditors of said railway company assuming that said order did not include the property belonging to said railway, and in what is known as the "supply-shops," be-
873 gan to interfere with the same and cause the same, or a part of it, to be levied on, and were proceeding to advertize and sell the same; but on application of your petitioner, as receiver, to your honor, your honor made an order in said cause, in and by which the sheriff of Hamilton County was directed and commanded to deliver to your petitioner "full and complete possession" of said master mechanic's supply-store in shop-building. Under process issued to enforce your honor's said order, the sheriff did put your petitioner in possession of said shop and all the supplies which it contained, as will fully and at large appear from said order and process on file, to which reference is here made.

Notwithstanding, F. M. Gardenhier, Thomas W. Rawlston, and Morgan Fryar, acting as constables, and claiming to have executions in their hands issuing from justice of the peace in and for Hamilton
874 County, in favor of various creditors against said Alabama and Chattanooga Railway Company, have claimed to have levied the same on a portion or all of said property in said "supply store," and on other property delivered as aforesaid, in pursuance of the aforesaid orders and decrees of this court, to your petitioner as receiver, and they have taken preliminary steps to sell the same on to-morrow. They are doing this with a full knowledge of the fact hereinbefore stated, and in contempt of the orders and decrees of this court, and in contempt of its authority. If they do so the property will, as your petitioner believes and charges, be removed beyond the jurisdiction of this court, and will probably be put beyond its authority. Your petitioner is but an officer of this court, acting under its authority, and holds the custody
875 of said property under heavy bond, and he prays to be protected in the execution of his duties. Petitioner charges that, being

urged by creditors and their counsel, the said Gardenhier, Rawlston, and Fryar are seeking to evade the orders of this court in the premises, and that they are guilty of a contempt of this court. Your petitioner therefore prays that said Gardenhier, Rawlston, and Fryar be served with a copy of this petition, that they appear and answer the same, and that they bring with them the executions or other authority under which they are acting, and that they show cause, if they can, why they shall not be attached for a contempt of this honorable court, and your complainant prays that they be attached and punished for said contempt; and your petitioner prays for all such other and further relief as the
876 case shall or may require.

(S'g'd) KEY AND RICHMOND AND BAXTER,
Solicitors, &c.

STATE OF TENNESSEE,
Hamilton County:

T. Geo. Garrett, agent, acting for and in behalf of the petitioner, J. H. Gindrat, swears that the facts set forth and alleged are true to the best of his knowledge, information, and belief.

T. GEO. GARRETT,
Spec'l Agent, &c.

Subscribed and sworn to before me this 2nd day of May, 1872.

(S'g'd) J. A. CALDWELL,
C. & M.

Filed 2nd May, 1872.

(S'g'd) J. A. CALDWELL,
C. & M.

Filed July 5th, A. D. 1872.

N. W. TRIMBLE, *Clerk.*

877 Circuit court of the United States, southern district of Alabama.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees, &c.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, and others.
} On bill for injunction and receiver.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the district of East Tennessee, S. M. Winchester, of the firm of Winchester & Company, of Chattanooga, in said State, dealers in lumber, and also of the firm of Winchester and Rand, of Gadsden, in the State of Alabama, proprietors of an extensive saw-mill at that point, who, being sworn, deposes and says that: I am a large shipper of lumber over
878 the northern division of the Alabama and Chattanooga Railroad, and always under Genl. Wm. T. Wofford's management have met with courteous attention and prompt dispatch of and delivery of freight over said railroad, and have found both the rolling-stock and the roadway in first-rate condition, and as good general management and discipline as on any road with which I am acquainted in the South, and have full confidence in the ability and skill of Genl. Wofford's management

to continue to give, as he already has done, full satisfaction to shippers and business men of this country.

S. M. WINCHESTER.

Sworn to and subscribed before me this 26th day of June, 1872.

J. M. JOHNSON,
U. S. Commissioner, Dist. East Tenn.

Filed July 5th, 1872.

N. W. TRIMBLE, *Clerk.*

879 Circuit court of the United States, southern district of Alabama

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees, &c.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, and others.

Personally appeared before me, J. M. Johnson, commissioner of the United States of America for the district of East Tennessee, R. M. Hooke, who, being duly sworn, deposes and says that he is about sixty-three years old, and that he is now, and has been for some years past, agent of the Nashville and Chattanooga Railroad, and being called upon by Genl. Wm. T. Wofford, receiver of the northern division of the Alabama and Chattanooga Railroad, for a sta'ement of the affairs of
880 said railroad as far as it has come under my observation, would state that said A. & C. Railroad and the said N. & C. Railroad have daily business relations with each other, which have always been conducted by said Wofford with great courtesy and fidelity; he having paid the Nashville and Chattanooga Railroad for all freights and charges which deponent has delivered to the northern division of the said A. & C. R. R. promptly, and that since said Wofford has had the management of said railroad, on this end of it, at least, so far as I could see its operations, been well and economically conducted, and has been delivering to the N. & C. R. R. from one to ten car-loads of freight daily.

R. M. HOOKE.

Sworn to and subscribed before me this 26th day of June, 1872.

J. M. JOHNSON,
U. S. Commissioner, Dist. of East Tennessee.

Filed July 5th, 1872.

N. W. TRIMBLE, *Clerk.*

881 Circuit court of the United States, southern district of Alabama.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, &c.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton and others.
} On bill for injunction and receiver.

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the district of East Tennessee, Thomas Webster, of Chattanooga, proprietor of the Chattanooga Foundry and Machine Works, who, being duly sworn, deposes and says that he is about 53 years old, and that he has done a great deal of work in his machine-shops and foundry for the Alabama

and Chattanooga Railroad while under the management of John C. Stanton, and deponent is still a creditor of the Alabama & Chattanooga Railroad Company therefor to the amount of $10,000.00; tha the
882 is well informed as to the condition of the rolling stock on the northern division of said A. & C. R. R., under the management of Gen'l Wm. T. Wofford, and that it is in good running repair. Deponent further says that he has been over said northern division of said railroad twice since it has been under the management of said Wofford, and always found polite attention, and as smooth a road-bed, as great speed, as on any railroad known to me in the South. Am sometimes a shipper over said road, and have always found prompt dispatch of freight and delivery at destination, and in this respect heard no complaint from any person since the road between Birmingham and Chattanooga has been under Gen'l Wofford's management.

THOS. WEBSTER.

Sworn to and subscribed before me this 26th day of June, 1872.

J. M. JOHNSON,
U. S. Commissioner, Dist. East Tennessee.

Filed July 5th, 1872.

N. W. TRIMBLE, *Clerk.*

883 *Affidavit of T. Geo. Garrett for respondents.*

United States circuit court in the southern district of Alabama, at Mobile.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees, &c.,
vs.
THE ALABAMA AND CHATTANOOGA RAILWAY, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, trustees, and others.

Before me, J. M. Johnson, a commissioner appointed by the United States circuit court for the eastern district of Tennessee, personally appeared Thomas G. Garrett, a resident of Montgomery, Alabama, and after being duly sworn, deposes and says as follows:

884 On the 26th day of December, 1871, I was appointed by John H. Gindrat, receiver, &c., a special agent at Chattanooga, Tennessee, to take charge of all the property of the Alabama and Chattanooga Railway Company receipted for by and turned over to the said John H. Gindrat as receiver as aforesaid. I arrived at Chattanooga, Tennessee, on the 29th day of December, 1871, and immediately entered upon the duties as aforesaid. I found the property was being cared for as well as possible under the circumstances, and guards were employed to watch and protect the same by day and night. The condition of the said railway at that time of my passing over the same was very good. Trains were run regularly and on schedule time,
885 making their due connections, and giving as far as I was able to see and judge satisfaction. I passed over the entire line of the road twice about the second week in December, 1871, and found the same to be the case as just stated. The chancery court for the county of Hamilton, State of Tennessee, began its sitting during the first part of January, 1872, at Chattanooga, Tennessee, and there was a motion made by the securitor on the injunction-bond for an injunction sued on and obtained on the 18th day of September, 1871, by and in favor of the State of Alabama, (against the sale of some property of the said

railway company, which had been levied on by executions and attachments in the hands of some constables for the county of
886 Hamilton, at Chattanooga, Tennessee, in behalf of some creditors of the said railway company,) to be released from said bond, as securitor on same, unless the complainant, the said State of Alabama, gave good counter security to indemnify the same as securitor on said bond. The chancery court, then sitting as aforesaid, made an order for the appearance of said complainant in open court, on the 19th instant following, to give good counter security on same, local security required, or the injunction would be dissolved and suit dismissed. The said State of Alabama failing to give the security required, on the 27th day of January following, and at the then term of said chancery court,
887 the injunction was de'solved, notwithstanding the fact I had secured counsel to appear in behalf of said complainant; an effort was made to prevent the injunction from being de'solved. Procedento was awarded to the justice of the peace issuing and the constable holding the said attachments and executions levied on said property to proceed with sale of said property so enjoined, and the collection of debts under said attachments and executions as aforesaid then in the hands of said constables. Accordingly, the said constables proceeded to advertize the said property so enjoined for sale on the 9th day of February, 1872. The property that was sold then was the lumber intended
888 for the erection of the union passenger depot at Chattanooga, Tennessee; all of which was estimated by competent men who made an inventory of same to be worth about $8,000. Said inventory was made six months preceding the sale of same on the 9th February, 1872, as aforesaid. It was all sold except that part of the framing that was erected which is now still standing. Also, a lot of iron bolts were sold with the same which were worth, I suppose, about sixty dollars. I went to the place and forbid the sale in the name and for the State of Alabama, and there and then warned all persons present that if they bid on or bought the said property, or any part of it, they would do it at their
889 own risk as the title thereof vested in the State of Alabama by virtue of her prior mortgage-lien. The officer proceeded to sell the same, being told by the persons present, who were bidders and buyers, that they would stand between him and all danger, or words to that effect. (A copy of said procedento accompanies this as a reference.) At the April term of the said chancery court, sitting at Chattanooga, Tennessee, an order was made on motion of counsel for some of the creditors of the said railway company to allow said constables to sell other property of said railway company in Chattanooga, Tennes-
890 see, and in behalf and in favor of said creditors, under attachments and executions levied, and then in the hands of said constables, and the same was advertized to be sold at the places where such property was situated, at Chattanooga, on the 3rd day of May, 1872. On the 2nd day of May, as aforesaid, I caused a petition to be presented to the said chancery court in the name and for the said Gindrat as receiver, praying the said court to stop the sale of said property, and for further and other relief as to the court might seem meet, and also asking that the said constables be attached for contempt of that court. The court failed to attach the said constables for contempt, but made an order to postpone the sale of said
891 property until further order of the said court in the case. (A copy of said petition and order accompany this as references.) At the same time a motion was made by counsel for the said creditors, and said motion was granted by said court, to allow the property so

attached and sought to be sold to be separated from the other property in the hands of said Gindrat as receiver and myself as custodian, and to allow the clerk and master of said chancery court to take immediate charge and control of the same, and to be responsible for the same. I did not resist the motion because it was expensive to guard the
892 same, and I could not make the same as safe as I desired to do, and was willing to shift the responsibility more immediately to the creditors themselves. On the 13th day of May following, some of the attaching creditors of said railway company, and who were seeking to sell the aforesaid property under attachment and execution as aforesaid, filed a petition in said chancery court praying the said court to allow the clerk and master of said court to sell the said property and reserve the monies arising from the sale of same in the hands of said clerk and master until the final adjudication of the original cause of the State of Alabama against the Alabama and Chattanooga Railroad Company. The said clerk and master was
893 to require all amounts for purchase at sale of said property under the amount of twenty-five dollars to be paid in cash, and all amounts over that sum he was to receive notes, executed by the purchaser, for the amount purchased at said sale, with two good and responsible securit*o*rs thereon; the note thus made and secured to bear interest from date, at a legal rate, and fall due, with the said interest accruing, on the 15th day of October, 1872. The said clerk and master, it was prayed, was to have the power also to loan the money out at the best legal rate of interest from the day of loaning to the 15th
894 day of October, upon notes executed and secured as aforesaid. The petition was granted and decretal order made accordingly—a copy of said petition and decretal order so granted accompanying this as references. I did not oppose the granting of this petition; for after looking at the said petition, and knowing the condition of the property and its location, and then consulting with our attorneys on the subject, I thought it best to allow the said property to sell in this way when I was satisfied the proceeds arising from the sales of the same would be safe and subject to the order of the claimant if successful in the final adjudication of the cause. Some of the said property was perishable, and would naturally depreciate in value from age; other parts of it were
895 liable to be destroyed by casualty arising by reason of its being situated immediately between and near the main and side tracks of the Alabama and Chattanooga Railway and the Nashville and Chattanooga Railway, where switch-engines were passing constantly day and night, so also trains of cars and engines attached, rendering the safety of the property so situated, or a portion of it, in danger of being destroyed, by reason of its having a roof-service of very combustible material, which was liable to ignite from sparks from the passing engines, as aforesaid, and thus the said property be utterly destroyed. However, I did not consent to the decretal order aforesaid. Ac-
896 cordingly, the clerk and master advertized the sale of said property, to take place on the 10th June instant, but the sale did not take place on that day, as advertized. The property thus sought to be sold consisted of spike-hammers, spike-mauls, stone-hammers, (iron and steel,) pinch-bars, crow-bars, track-jacks, tamping-bars, tamping picks, earth-picks, shovels, spades, some steel bars, cement, old cart-gear, collars, bridles, single-trees, double-trees, trace-chains, &c., car-wheels, engine-tires, car-brasses, spring-steel, oils, paints, varnishes, roofing, stoves, oil-cloth, car-blinds, framing for car-ventilators, some lumber, (about 15,000 feet,) and some other articles that I do not now

897 remember. The value of the lumber thus advertized for sale was estimated to be about twenty thousand dollars, if it had been in first-class condition and merchantable. I have used all legal means in my power to prevent the sale of any of the property of the Alabama and Chattanooga Railway Company, during my term of duty here in the capacity aforesaid. I have often been over the line of railway between Chattanooga, Tennessee, and Birmingham, Alabama, and think it is as good as any road I ever saw. It is safe for trains running at the rate of thirty miles an hour. A sufficient force is employed to keep up the track and road-bed and to keep the superstructures in good
898 repair. System and discipline are enforced by the present authorities of the said railway, and the travelling and shipping public are accommodated satisfactorily. The property here is being cared for as well as it can be. Watchmen are employed to guard the same from waste, destruction, or depredation. I know of no waste of any property or the destruction of any of the property of the said railway since I came here, except some few loose valueless articles that have been picked up by common thieves and prowlers, who are always visiting such places for the purpose of committing theft. Then some supplies for
899 train and office use issued from the store-room at depot and for station-agents, along the line of the road, to the amount of about one thousand dollars. I have the original requisitions for the same that have been drawn since I came here. Some of the lumber in the lumber-yard of the said railway at Chattanooga is unavoidably injuring by being exposed to the elements; so are some lots outside of the said lumber-yard. A small lot of lumber has been used to make the necessary repairs, and a lot of 3,500 feet of assorted lumber was taken by order of the chancery court at Chattanooga, as will be seen by accom-
900 panying petition and order for the same for reference. Some desks and chairs in the offices have also been replevined and orders for their delivery made by the said chancery court, and I have delivered 1 desk and 2 chairs, as accompanying replevins and orders will show. With these few exceptions everything is here that I found here. Several cars have been repaired and put upon the road that were left crippled by John C. Stanton, and the same are now in first-class condition.

T. GEO. GARRETT.

Sworn to and subscribed before me this 29th day of June, 1872.

[SEAL OF U. S. COMMR.] J. M. JOHNSON,
U. S. Commissioner, East. Dist. Tenn.

Filed July 5, 1872, at 9 a. m.

N. W. TRIMBLE, *Clerk.*

901 *Order of Hon. J. P. Bradley on bill.*

Circuit court of the United States, southern district of Alabama.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. STANTON, trustees, &c., *vs.* THE ALABAMA AND CHATTANOOGA RAILROAD COMPANY, LEWIS RICE, A. C. LIPPETT, and DANIEL N. STANTON, and others. } On bill for injunction and receiver.

The bill and affidavits in this case, being presented to me, and application being made for an injunction and the appointment of a receiver in accordance with the prayer thereof, it is ordered that the said application be

heard before the circuit court aforesaid setting in equity, at Mobile,
902 in the southern district of Alabama, aforesaid on the twentieth (20th) day of June next, at eleven o'clock in the forenoon, and that a copy of the bill and affidavits, and notice of the hearing aforesaid, be served on the defendants at least ten days before said hearing, and the sale of property of said company at Chattanooga be suspended till after said hearing.

May 27th, 1872.

JOS. P. BRADLEY,
Associate Justice of the Supreme Court U. States.

Acceptance of service.

OFFICE CLERK AND MASTER CHANCERY COURT,
HAMILTON COUNTY, STATE OF TENNESSEE:

903 I hereby acknowledge service of this paper and receipt of a copy of the same.

This 8th June, 1872.

[SEAL.]

J. A. CALDWELL,
Clerk and Master Chancery Court at Chattanooga, Hamilton County, Tennessee.

UNITED STATES OF AMERICA,
Eastern District of Tennessee, ss:

William R. Carlile, being duly sworn, deposed and said that, in the city of Chattanooga, in the county of Hamilton and State of Tennessee, he was present, on the 8th day of June, 1872, when James A. Caldwell, whose genuine signature is hereunto endorsed, and who is the
904 clerk and master of the chancery court at Chattanooga, Tennessee, did acknowledge service of the within, and attach thereto the genuine impress of the seal of said court, and said Caldwell, at the same time, received, in the presence of Len Jones, a deputy United States marshal for East Tennessee, a certified copy of the within.

WILLIAM R. CARLILE.

Sworn to and subscribed before me this June 8th, 1872.

[SEAL.]

J. M. JOHNSON,
U. S. Commissioner District of East Tennessee.

Filed May 30th, 1872.

N. W. TRIMBLE, *Clerk.*

905 *Affidavit of service on Caldwell and Wofford.*

In the circuit court of the United States for the southern district of Alabama, sitting at Mobile, Alabama.

SETH ADAMS ET ALS. *vs.* THE ALABAMA AND CHATTANOOGA RAILROAD Company et als. } Original. Inj. Bill in equity.

UNITED STATES OF AMERICA,
Eastern District of Tennessee, ss:

Personally appeared before me, J. M. Johnson, a commissioner of the circuit court of the United States for said district and State last named, William R. Carlile, who, being duly sworn, deposed and said that, on the eighth day of June, 1872, in the city of Chattanooga, in the county
906 of Hamilton and State of Tennessee, affiant served James A. Caldwell, clerk and master of the chancery court at Chattanooga, Ten-

nessee, with process in the above cause, as stated in the caption, by delivering to him a printed and written copy of the original bill and affidavits and exhibits with the fiat of his honor, Judge Bradley, one of the associate justices of the Supreme Court of the United States, attached and endorsed thereon; affiant further avers that, on the tenth day of June, 1872, at the city of Cartersville, in the county of Bartow, in the State of Georgia, affiant served William T. Wofford, receiver for the superior court of Dade County, Georgia, &c., with process in the above-
907 named cause, as stated in the caption, by delivering to him a printed and written copy of the original bill and affidavits and exhibits with the fiat of his honor, Judge Bradley, one of the associate justices of the Supreme Court of the United States, attached and endorsed thereon.

WILLIAM R. CARLILE.

Sworn to and subscribed before me this 10th day of June, 1872.

[SEAL.] J. M. JOHNSON,
U. S. Commissioner Dist. of East Tennessee.

In the circuit court of the United States, southern district of
908 Alabama, at Mobile.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. STANTON, trustees, &c.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippett, and Daniel N. Stanton, trustees, and others.

On bill for injunction and receiver.

Before me, the undersigned, a commissioner of the United States for the middle district of Alabama, personally appeared this day Robert H. Knox, esquire, who is known to me, and, being by me sworn, upon oath says that, on the 7th day of June, 1872, he handed Robert B.
909 Lindsay a copy of the original bill, exhibits, and affidavits in the above-stated case; that, on the 8th day of June, 1872, he handed John H. Gindrat and John F. Bailey a copy of the original bill, exhibits, and affidavits; all of which was done in the city of Montgomery, in the middle district of Alabama.

ROBERT H. KNOX.

Sworn to and subscribed before me this the day of June, A. D. 1872.

E. C. V. BLAKE,
Commissioner of the U. S. for the Middle Dist. of Alabama.

Service perfected on Robert B. Lindsay, John H. Gindrat, John F. Bailey, J. A. Caldwell, W. T. Wofford, Charles Walsh, M. & O. R. R. Co.

910 *Agreement of counsel as to submission of cause, &c.*

The circuit court of the United States for the southern district of Alabama. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. STANTON, trustees, &c., complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, and others, defendants.

It is agreed by and between the counsel for the complainants and defendants respectively to this cause that the same shall be submitted to

Joseph P. Bradley, one of the justices of the Supreme Court, upon the application of complainants for an injunction and receiver, which application is to be heard before him at Washington City, on the
911 day of July, 1872, or as soon thereafter as to him shall seem proper, and the counsel shall have the right to be heard orally or in writing as advised.

It is further agreed that no objection which may exist to any affidavit already taken, or which may hereafter be taken, in the cause, or to the use thereof, shall be waived by this agreement, but the same may be insisted upon by either party precisely as if this agreement had never been made.

All affidavits hereafter taken, or not now on file, shall be filed in the clerk's office of this court at least five days before the day aforesaid.

The defendants are at liberty to prepare and file their answers to the bill simply as affidavits without prejudice to their respective de-
912 murrers; and after the action of the court upon the demurrer, the defendants shall put in their answers, as such, to the bill as they may be advised.

Objections to the sufficiency of the service of notice upon the defendants, including exhibits or affidavits required by said judge, are hereby waived.

W. M. BROOKS,
J. A. ELMORE,
E. A. O'NEAL,
L. P. WALKER,
Solicitors for J. H. Gindrat, John F. Bailey, and Samuel B. Jones.
E. H. GRANDIN,
Solicitor for Charles Walsh.
JAMES Q. SMITH,
For Complainants.

913 *Petition to amend bill.*

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. STANTON, as trustees for the holders of bonds secured by the first mortgage of the Alabama and Chattanooga Railroad Company, et als.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis B. Rice, A. C. Lippitt, and Daniel N. Stanton, et als.

In equity. Southern district of Alabama, at Mobile.

To the honorable the judges of the circuit court of the United States for the southern district of Alabama, at Mobile:

Complainants would respectfully state that, on the 30th day of April, 1872, they filed in said court an original bill in equity, entitled as above; that no subpœnas have yet been issued out of said court to defendants, requiring an answer to said bill; that the answer of Charles Walsh is alone filed of all the defendants; that defendants Robert B. Lind-
914 say, John H. Gindrat, John F. Bailey, and Samuel B. Jones have filed demurrer to said original bill; that no replication has yet been made to said answer or demurrer.

Complainants ask your honor, under the rule in such case prescribed for the government of suits in equity, to grant leave to file an amended

bill of complaint, which, when filed under said leave, is to form part of said original bill.

(Signed) JAMES Q. SMITH,
Solicitor for Complainants.

Filed July 5th, A. D. 1872, at 9 a. m.

N. W. TRIMBLE, *Clerk*

915 *Amendment to original bill.*

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees of the holders of the bonds secured by the first mortgage of the Alabama and Chattanooga Railroad Company,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, Daniel N. Stanton, trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chattanooga Railroad Company, and others.

Amendment to bill in equity. Southern district of Alabama, at Mobile.

To the honorable the judges of the circuit court of the United States for the southern district of Alabama, exercising chancery jurisdiction, at Mobile, in the State of Alabama:

An amendment to an original bill in equity entitled as above and heretofore filed in said court on the 25th day of April, 1872,
916 which said amendment is, by leave of one of the judges of said court, ordered to be filed with the said original bill and to be made a part of the same.

After the word Tennessee on the third line of folio 5, page 2, insert: And said railway passes through the counties of Sumter, Hale, and Greene, in the said southern district of Alabama, within the jurisdiction of said court, and the said railway company is a citizen corporation, of said southern district of Alabama.

After the word exhibit in the last line of folio 6, page 3, add:

Your complainants state that Francis Dane and John Demeritt, trustees mentioned in Exhibit A, on the day of , 1870, resigned
917 their several trusts, which said resignation was accepted, at a meeting of the directors of said railway company, held at the office of said company in the city of Boston, that said Dane was a resident citizen of the city of Boston, State of Massachusetts, when selected as a trustee in said Exhibit A, and at the time of his said resignation aforesaid; that one James F. Soutter, a resident citizen of the city and State of New York, was chosen by said directors a trustee under said Exhibit A in the place of said Dane, but the said Soutter failed to accept, and did not act as trustee; and the said Francis B. Loomis was elected at a meeting of said directors a trustee under said Exhibit A, which said trust the said Loomis accepted, he, the said Loomis, being then and now a resident citizen of the State of
918 Connecticut; that John Demeritt, a trustee mentioned in said Exhibit A, resigned his said trust, which resignation was duly accepted by the directors of said railway company, and thereupon complainant John C. Stanton, then and now a resident citizen of the State of Massachusetts, was elected as a trustee under said Exhibit A, which trust he, the said John C. Stanton, accepted; that said Demeritt, when selected as trustee, and at the time of his said resignation, was a resi-

dent citizen of Boston, Massachusetts; a certified copy of all which proceedings, under the seal of said railway corporation, will be introduced in evidence on the submission of this suit to said court for decision. (See Exhibit 20.)

Insert after the word gold, in the last line of folio 29, on page 9:

919 That default having been made in the payment of the coupon interest warrants, as aforesaid, according to the stipulation of said company, the default and refusal of said State of Alabama to pay any interest whatever upon the bonds wherein the holders refused to make the proof required by an act of the legislature of the State of Alabama, and the total repudiation and failure to recognize the large number of bonds heretofore stated as valid bonds, and the refusal to pay any interest whatever thereon, either in currency or gold, and all said failure, refusal, and repudiation continuing for three months thereafter, without the consent of the holders of such bonds and the coupon interest warrants attached, the demand specified in Exhibit A was not

920 made by said trustees of said railway company, for the reason that said railway was then taken possession of as aforesaid, together with all the other property belonging to said company, and said company had then no power or authority to comply with said demand specified in said Exhibit A.

Insert after the word same, on the 4th line of folio 35, page 11:

That after default made in the payment of the interest due on said bonds, and after the interest warrants were presented to said company and payment demanded, and the default having continued three months after said demand, without the consent of the holder of such coupon or bond, then the principal of all said bonds became due and payable, and

921 the said railroad company was duly notified thereof, (upon the written request of the holders of a majority of said bonds outstanding so to do,) and that complainants would proceed to collect both principal and interest of all such bonds outstanding by foreclosure and sale of said railroad property.

Insert after the word interested, in folio 37, page 11:

Your complainants represent unto the court that they are informed and believe, and so state, that the Alabama and Chattanooga Railroad Company acknowledge the binding indebtedness created by said company for all the bonds heretofore described to the holders thereof; that all of said bonds were lawfully issued by said company and sold by them for a valuable consideration to the holders thereof; that the said company's failure to comply with the conditions of said bonded debt

922 stated in Exhibit A is solely on account of the inability of said company to pay, which failure was beyond the control of said company, the principle cause being the seizure of said company's railway and other property as aforesaid.

Complainants state from information and belief, which information they believe to be true, that since the filing of said original bill the interest on all of said bonds became due; that on the first day of July, 1872, the time when said interest became due, the interest warrants attached to said bonds were presented at the bank-office of the financial agents of the State of Alabama, the place designated in the city of New York, by the governor of said State, where such interest warrants should be presented for payment; that payment was demanded of said agents, during the business

923 hours, of an officer in said bank, of the interest warrants due, and payment refused, there being "no funds" in the hands of said agents to pay the same, and thereupon said interest warrants were

duly protested for non-payment. Complainants state as aforesaid that the local warrants issued by the said State, to pay State officers, are unpaid and protested because of no funds, to meet the same, in the treasury; that said State is to-day, under the true intent and meaning of the bankrupt-law, a bankrupt.

Complainants state that they are informed and believe, and so state, that some of said bondholders, fearing the destruction of said railway from the causes heretofore stated, and in order, if possible, to protect said railway, the only substantial security for the payment of
924 the interest on said bonds, and the principal when due, offered to pay to the said Lindsay the amount of money and twenty-five thousand dollars more as expenses if he, the said Lindsay, would let them have said railway; but the said Lindsay refused to do so.

Complainants state that said bondholders bid at said bankrupt-sale, desiring to get possession of and protect said railway, but said Lindsay, under the pretense of purchasing for the protection of the State of Alabama, but in fact for the purpose before stated, proposed in the most reckless and unauthorized manner to bid up to several million dollars; but since said sale, although for cash, said Lindsay has only been able to pay one hundred thousand dollars by pledging State securities, issued for other purposes, and procured acceptances for the balance of
925 said purchase-money, two hundred and twelve thousand dollars, by pledging with the acceptors State securities, not warranted by law to be thus used, but were issued for other purposes under the laws of said State; this, too, at a time when the State of Alabama is under protest at home and abroad and no funds in the treasury of the State. A copy of the report of the bankrupt-sale, notice of sale, and terms made by the assignee is herewith filed, marked "Exhibit O," and made part of this amended bill.

Insert after the word defendant, on the 7th line of folio 50, page 15:

That is to say, to Charles Walsh, The Mobile and Ohio Railway Company, Robert B. Lindsay, John F. Bailey, John H. Gindrat, Samuel B. Jones, W. T. Wofford, and J. A. Caldwell.

(S'g'd) JAMES Q. SMITH,
Sol. for Complainants.

926 UNITED STATES OF AMERICA.
District of East Tennessee:

Before the undersigned, a commissioner of the United States in and for the district aforesaid, personally appeared John C. Stanton, one of the trustee complainants in the foregoing amendment to a bill in equity heretofore filed and now pending in the circuit court of the United States for the southern district of Alabama, at Mobile, who, being by me duly sworn, upon oath says that the matters set forth in the foregoing amendment, where stated of his own knowledge, are true, and those matters stated from information and belief he believes to be true.

(S'g'd) JOHN C. STANTON,
As one of the Trustees of the 1st-Mortgage Bonds of the Alabama and Chattanooga Railroad Company.

Sworn to and subscribed before me this the 3rd day of July, A. D. 1872.

[SEAL OF U. S. COM'N'R.] DAN. J. DUFFY,
U. S. Commissioner for Dist. of East. Tenn.

927 EXHIBIT 20.

Extracts from minutes of directors' meetings of the Alabama and Chattanooga Railroad Company.

"BOSTON, *Novr. 3rd*, 1869.

"At the regular monthly meeting of the directors held this day,

"The resignation of Mr. F. Dane of his office as trustee under the first-mortgage trust deed of this company was read, and on motion it was voted,

"That the president be authorized to obtain a new trustee to take the place of F. Dane, esquire, trustee under the first-mortgage trust-deed of this company, and to obtain from said F. Dane, trustee, a conveyance of said trust.

(Signed) "ALBERT F. THAYER,
"*Secretary.*"

928 "BOSTON, *January 3rd*, 1869.

"At a special meeting of the directors held this day, on motion it was voted that the board of directors hereby appoint James T. Soutter, of New York, to be a trustee, under the indenture of mortgage dated December 19th, 1868, and made to secure the first-mortgage bonds of this corporation, in place of and as successor to Francis Dane, whose resignation of said office of trustee was duly accepted by this board on November 3rd, 1869, and that said Dane, together with John Demeritt and Seth Adams, the trustees under said indenture of mortgage, be requested to make such conveyance to said Adams, Demeritt, and Soutter as will vest the title to said mortgaged premises in said trustees.

(Signed) "ALBERT F. THAYER,
"*Secretary.*"

929 "BOSTON, *Aug.* 24, 1870.

"At the 1st meeting of the new board of directors held this day, on motion it was voted that the board of directors hereby appoint Francis B. Loomis, of New London, Connecticut, to be a trustee, under the indenture of mortgage dated December 19th, 1868, and made to secure the first-mortgage bonds of this corporation, in place of and as successor to Francis Dane, whose resignation of said office of trustee was duly accepted by this board on the 3rd of November, 1869, Mr. James T. Soutter, who was elected by the board to fill the said vacancy on the 3rd day of January, 1870, having failed to signify his acceptance of said trust; and that said Dane, together with John Demeritt and Seth Adams, the trustees under said indenture of mortgage,
930 be requested to make such conveyance to said Adams, Demeritt, and Loomis as will vest the title to said mortgaged premises in said trustees.

"The secretary then read the resignation of Mr. Robert Treat Paine, jr., of his office of trustee under the second-mortgage trust-deed, and on motion it was voted that the board of directors hereby appoint Daniel N. Stanton, of Newton, Massachusetts, to be a trustee, under the indenture of mortgage dated December 19th, 1868, and made to secure the second-mortgage bonds of this corporation, in place of and as successor to Robert Treat Paine, jr., whose resignation of said office of trustee was duly accepted by this board on the 24th day of August, 1870, and that said Paine, together with Lewis Rice and Samuel A. Carlton,
931 the trustees under said indenture of mortgage, be requested to

make such conveyance to said Rice, Carlton, and Stanton as will vest the title to said mortgaged premises in said trustees.

(Signed) "ALBERT F. THAYER,
"*Secretary.*"

"NEW YORK, *December* 16*th*, 1870.

"At a special meeting of the board of directors held this day,

"The president read the resignation of Mr. S. A. Carlton as trustee on the second-mortgage bonds, and, on motion of Mr. Rice, his resignation was accepted.

"The president also read the resignation of Mr. John Demeritt as trustee on the first-mortgage bonds. Mr. Loomis moved that his
932 resignation be laid on the table; the motion not being seconded, Mr. Rice moved that his resignation be accepted, which was so voted.

"On motion of Mr. Lippitt, Mr. John C. Stanton was chosen a trustee on the first-mortgage bonds in the place of Mr. Demeritt.

(Signed) "S. L. WHEELER,
"*Secretary.*"

A true copy.

J. RICHARDS,
Secretary.

STATE OF NEW YORK,
City and County of New York, ss:

On this 20th day of February, A. D. 1872, before me, Charles Nettleton, a commissioner of the States of Alabama, Georgia, Tennessee, and Mississippi, duly appointed and commissioned by the respective
933 governors thereof to take the acknowledgment of deeds, affidavits, &c., duly sworn, and dwelling in the said city of New York, personally appeared J. Richards, who, being duly sworn by me, did depose and say that he resides at the city of Brooklyn, in the State of New York; that he is the secretary of the above-named the Alabama and Chattanooga Railroad Company, and that he knows the corporate seal thereof; that the seal affixed to the foregoing writings is the corporate seal of said company. And he further deposed and said that the foregoing are true and correct extracts from the record-books of the said company, and that the same were taken from the original minute-books of said company.

(Signed) J. RICHARDS,
Secretary.

934 Subscribed in my presence and sworn to before me this 20th day of February, A. D. 1872.

In testimony whereof I have hereunto set my hand and affixed my official seals as commissioner for the four States aforesaid.

COMM'R'S SEAL FOR ALA.	(Signed) CHARLES NETTLETON, *Commissioner for Alabama in New York.*
COM'R'S SEAL FOR GEORGIA.	CHARLES NETTLETON, *Commissioner for Georgia in New York.*
COMM'R'S SEAL FOR TENN.	CHARLES NETTLETON, *Commissioner for Tennessee in New York.*
COMM'R'S SEAL FOR MISSISSIPPI.	CHARLES NETTLETON, *Commissioner for Mississippi in New York.*

Filed July 6th, 1872.

N. W. TRIMBLE,
Clerk.

935 *Report of assignees' sale.*

EXHIBIT O TO SUPPLEMENTAL BILL.

In the district court of the United States for the middle district of Alabama. In bankruptcy.

IN THE MATTER OF THE ALABAMA AND CHATTANOOGA Railroad Company, a bankrupt.

To the honorable Richard Busteed, judge of the said court:

The undersigned, assignees in bankruptcy of the Alabama and Chattanooga Railroad Company, respectfully report unto your honor that under and by virtue of a decree rendered by this honorable court on the 13th day of March, 1872, in the matter of the petition of John H. Gindrat, Samuel B. Jones, and John F. Bailey, assignees, &c., as aforesaid, for the sale of the franchises and property of the said Alabama
936 and Chattanooga Railroad Company, and after giving previous notice of the time and place of said sale by advertising the same for more than thirty days in each of the newspapers in said decree mentioned, they proceed' on the 22nd day of April, 1872, in accordance with all the terms of said decree, to sell all the continuous railroad of said company from its terminus at Meridian, in the State of Mississippi, to its terminus at Wauhatchie, in the State of Tennessee, together with its franchises, equipments, rolling-stock, machine-shops, depots, water-stations, road-beds, machinery, tools, easements, and every other right, interest, or estate whatsoever, which was conveyed by said Alabama and Chattanooga Railroad Company by its mortgage or deed
937 of trust executed on the 19th day of December, 1868, to Seth Adams, Francis Dane, and John Demeritt, trustees, together with the machine-shops, machinery, and tools, depots and station-houses, in the city of Chattanooga, State of Tennessee, subject, however, to the lien of the State of Alabama, on its endorsements of the first-mortgage bonds of said railroad company, and to the lien of the holders and owners of the first-mortgage bonds so endorsed by the State of Alabama, to the amount of forty-seven hundred and twenty thousand dollars, and subject to the further lien of the State of Alabama for interest paid on the said mortgage-bonds, to the amount of eight hundred and thirty-two thousand five hundred and eighty-six dollars, and subject to the further lien of the State of Alabama for such further in-
938 terest as it may hereafter pay on said first mortgage bonds, and subject to a lien of the State of Georgia upon so much of said road as is situate in said State.

Before the sale was proceeded with the assignees announced the terms of sale, which are hereto attached, marked "Exhibit A," as a part of this report; and also stated that certain property which belonged to the company, the titles to which were in the name of other parties, was not included in the list of property to be sold, to wit, certain real estate and improvements thereon, including the hotel and post-office buildings, and other property at Chattanooga not connected with the railroad; nor did it include the hotel property at Attalla, nor the lands donated to it by Congress, nor the telegraph-lines, nor the unpaid stock.
939 The assignees further stated that the lien of the State of Georgia mentioned in the notice of sale had not been adjusted, and therefore the sale would be made subject to that lien.

Judge W. J. Haralson, in his own behalf as a creditor, and in behalf of certain other creditors of the bankrupt, announced from the stand that he forbid the sale.

Judge S. F. Rice gave notice, on behalf of Wm. F. Drake, Rice, Chilton, and Jones, and others, holders of large amounts of the second-mortgage bonds of the bankrupt, and also on behalf of the bankrupt, that they protested against the sale, as being unauthorized and illegal. He also gave notice of the pendency of the bill in equity in the United States circuit court at Mobile, wherein Wm. F. Drake and others are complainants, and John H. Gindrat and others defendants; and
940 that the purchaser or purchasers at this sale, whoever they might be, would be made parties defendant to that suit as soon as pen and paper could make them; and all the questions presented by that bill would be pressed to a decision.

William S. Thorington, esqre., as attorney for Campbell Wallace and others, holders of the second-mortgage bonds of the bankrupt, also protested against the sale, and gave notice that the validity of the sale would be contested by his clients, as well for the reservations made on the sale as for all other legal reasons.

John A. Minnis, esq., United States district attorney, gave notice of a debt due the United States Government, amounting to about nineteen thousand dollars, which he claimed was paramount to all other liens upon the property.

941 The crier then put up the property, and the State of Alabama became the purchaser thereof at the sum of three hundred and twelve thousand dollars, that being the highest and last bid therefor.

The undersigned further report that no portion of the purchase-money has yet been paid.

All of which is respectfully submitted.

JOHN H. GINDRAT,
JOHN F. BAILEY,
Assignees in bankruptcy of the Alabama and Chattanooga Railroad Company.

UNITED STATES OF AMERICA,
Middle District of Alabama:

Before me, George H. Patrick, commissioner of bail and affida-
942 vit in and for said district, personally appeared John H. Gindrat and John F. Bailey, assignees in bankruptcy of the Alabama and Chattanooga Railroad Company, who, being duly sworn, state under oath that the matters and things contained in the foregoing report are true.

JOHN H. GINDRAT.
JOHN F. BAILEY.

Sworn to and subscribed this 22nd day of May, A. D. 1872, before me.

GEO. H. PATRICK,
U. S. Commissioner, Middle District of Alabama.

Read in open court, and ordered to be filed, May 29th, 1872.
E. C. V. BLAKE, *Clerk.*

943 *Report of master as to allegations in report of assignees of sale.*

In the United States district court for the middle district of Alabama.

IN THE MATTER OF THE ALABAMA AND CHATTANOOGA Railroad Company, bankrupt. } In bankruptcy.

The undersigned, to whom it was referred, as special master, to enquire into and take proof as to the correctness of the allegations in

said report contained touching the interference of certain persons therein named, with the proceedings of the assignees at the time of the sale, and whether the interference, if it took place, prevented any competition in the bidding or in any way affected said sale, "and also as to the terms of the sale as announced at the sale by the assignees," and also
"as to whether other persons bid at said sale and who, and whether
944 such other persons were prepared to comply with the conditions announced at the sale, and what amount bid," and also as to whether the person who bid the highest bid and became thereby the purchaser was bidding for himself or for other persons, or for a corporation, and for what other person or corporation, and also if said bid has been made by and for the State of Alabama, then to report whether such bid was by any lawful authority of the State of Alabama, and whether such bid binds the State of Alabama or imposes a mere personal and individual liability upon the person who bid without such lawful authority, and also whether the person who bid next to said bid, who are prepared to take the same and comply with the terms of sale, should not be substituted as bona-fide purchasers and have the
945 sale confirmed to them, having enquired into the matters referred to him, and taken proof thereon, respectfully reports that the testimony taken by him is filed herewith.

The undersigned also reports:

1st. That the statements in the report of sale made by the assignees herein are in all respects true.

2nd. That said sale was fairly conducted, and the statements made thereat by Judge Rice and others did not in any way prejudice it, nor were any bidders deterred by reason of said statements, or any of them, nor was the price affected thereby.

3rd. That the assignees at said sale announced that they reserved the right of requiring a deposit of fifty thousand dollars from the
946 purchaser at said sale, and agreed to waive such deposit when it was announced that the State of Alabama had become the purchaser at said sale.

4th. That Charles O. Whitney and T. J. Burnett were the only bidders at said sale; that the first bid of ten thousand dollars was made by Charles O. Whitney, who bid as high as three hundred and eleven thousand dollars; that T. J. Burnett bid the sum of three hundred and twelve thousand dollars; that said Whitney represented W. F. Drake and others, some of whom were present and were abundantly able to pay the amount bid for by them by said Whitney; that said Drake is a reliable and substantial man and represented that he came prepared to purchase said railroad at said sale, and was for that purpose
947 possessed of certified checks to the amount of three hundred thousand dollars. That T. J. Burnett represented the governor of the State of Alabama. No proof was made or tendered as to his financial ability, or as to the financial condition of said State, at the time of the sale.

5th. That Charles O. Whitney represented W. F. Drake and others claiming to be the holders of the second-mortgage bonds issued by the Alabama and Chattanooga Railroad Company, at said sale, and that T. J. Burnett represented the governor of the State of Alabama at said sale.

That the bid by the State of Alabama was made under and by virtue

of an act of the legislature of said State, entitled "An act to pro-
948 tect the State in its liability on account of railroads," approved February 26th, 1872. That said bid binds said State, and is not a mere personal liability.

7th. That if the State of Alabama should fail to pay the sum of three hundred and twelve thousand dollars, the said road should be resold at the risk of said State, and the said State held for any difference that may exist between the amount bid at the sale heretofore made and the amount realized from such resale.

All of which is respectfully submitted.

Dated June 13th, 1872.

LAWRENCE WORRALL,
Master, &c.

Filed June 13th, 1872, at 6 p. m.

E. C. V. BLAKE, *Clerk.*

949 *Supplemental report of assignees of sale.*

District court of the United States for the middle district of Alabama.

IN THE MATTER OF THE ALABAMA AND CHATTA-
nooga Railroad Company, a bankrupt. } In bankruptcy.

To the honorable Richard Busteed, judge of the district court of the United States for the middle district of Alabama:

The undersigned, assignees in bankruptcy of the Alabama and Chattanooga Railroad Company, respectfully beg leave to make the following supplemental report:

His excellency Robert B. Lindsay, governor of the State of Alabama, has this day satisfactorily arranged with the undersigned assignees for the three hundred and twelve thousand dollars bid by the State
950 of Alabama for said railroad, its machinery, rolling-stock, &c., as heretofore reported to this honorable court, in the following manner: He has paid us in cash the sum of one hundred thousand dollars, and to secure the payment of the balance, two hundred and twelve thousand dollars, has given us his official draft on Lehman, Durr and Company, financial agents of the State of Alabama, and accepted by them for said sum of two hundred and twelve thousand dollars, payable to us forty days after date, and bond of the State of Alabama in the penal sum of four hundred and twenty-four thousand dollars.

The undersigned therefore respectfully request that the sale of said road as heretofore reported by them be confirmed by this honorable court.

951 All which is respectfully submitted.

(Signed) JOHN F. BAILEY,
JOHN H. GINDRAT,
Assignees in Bankruptcy of the Alabama and Chattanooga Railroad Company.

MIDDLE DISTRICT OF ALABA.:

Before Lawrence Worrall, register in bankruptcy in and for said middle district of Alabama, personally appeared John F. Bailey and John

H. Gindrat, who, being duly sworn, depose and say that the matters and things contained in the foregoing report are true.

JNO. F. BAILEY.
JOHN H. GINDRAT.

Sworn to and subscribed this the 14th day of June, A. D. 1872, before me.

LAWRENCE WORRALL,
Register in Bankruptcy for Middle District of Alabama.

952 The undersigned, as attorneys appointed by the court of the assignees in bankruptcy of the Alabama and Chattanooga Railroad Company, beg leave to state their concurrence in the foregoing supplemental report of said assignees, and recommend the confirmation of the sale made by them of said railroad to the State of Alabama, and the approval by the court of the arrangement made as reported for the payment of the balance of the purchase-money.

June 14th, 1872.

J. A. ELMORE.
E. A. O. NEAL.
W. M. BROOKS.
L. P. WALKER.

(Endorsed:) "Approved."

953 *Assignees' sale of the Alabama and Chattanooga R. R.*

In the district court of the United States for the middle district of Alabama.

IN THE MATTER OF THE ALABAMA AND CHATTANOOGA Railroad Company, a bankrupt. } In bankruptcy.

Pursuant to the order of the said court, made on the 13th day of March, 1872, the undersigned, assignees in bankruptcy of the Alabama and Chattanooga Railroad Company, hereby give notice that they will expose to sale, for cash, at public auction, at the artesian basin in the city of Montgomery, State of Alabama, on Monday the twenty-second day of April, 1872, all the continuous railroad of said company,
954 from its terminus at Meridian, in the State of Mississippi, to its terminus at Wauhachie, in the State of Tennessee, together with its franchises, equipments, rolling-stock, machine-shops, depots, water-stations, road-bed, machinery, tools, easements, and every other right, interest, or estate whatsoever, which was conveyed by said Alabama and Chattanooga Railroad Company by its mortgage or deed of trust executed on the nineteenth day of December, 1868, to Seth Adams, Francis Dane, and John Demeritt, trustees, together with the machine-shops and machinery and tools, depots and station-houses in the city of Chattanooga, State of Tennessee. Subject, however, to the lien of the first-mortgage bonds of said railroad company, and to the lien of the holders and owners of the first-mortgage bonds, so endorsed by
955 the State of Alabama, to the amount of forty-seven hundred and twenty thousand dollars, and subject to the further lien of the State of Alabama for interest paid on said first-mortgage bonds to the amount of eight hundred and thirty-two thousand five hundred and eighty-six dollars, and subject to the further lien of the State of Alabama for such interest as it may hereafter pay on said first-mortgage

bonds; and so much of said road as is subject to a lien of the State of Georgia will be sold subject to that lien. Should said lien, in favor of the State of Georgia, be settled and adjusted prior to the day of sale aforesaid, then the said road will be sold disencumbered thereof.

JOHN H. GINDRAT,
SAM. B. JONES,
JOHN F. BAILEY,

Assignees in bankruptcy of the Alabama and Chattanooga Railroad Company, Montgomery, Ala., March 14, 1872.

Filed June 15th, 1872, 1 p. m.

E. C. V. BLAKE,
Clerk.

Filed June 20th, 1872.

N. W. TRIMBLE,
Clerk.

956 *Answer of Robert B. Lindsey.*

UNITED STATES OF AMERICA:

In the circuit court of the United States, sitting for the southern district in and for the State of Alabama at Mobile.

The separate answer of Robert B. Lindsey to the bill of complaint filed in said court by Seth Adams, Francis B. Loomis, and John C. Stanton, styling themselves trustees for the holders of the bonds secured by the first mortgage of the Alabama and Chattanooga Railroad Company, against said railway company, Lewis Rice, and others.

Saving and reserving all objection or benefit of exception which can or may be taken to the errors, imperfections, inconsistencies, and misstatements which exist in said bill of complaint, this defendant, answering, says:

957 He admits that the residences of complainants are as stated in the bill.

He denies that Francis B. Loomis and John C. Stanton or either of them is the trustees or a trustee under said deed of trust or mortgage. This he answers on belief; and he has no knowledge that they are trustees aforesaid. Francis Dane and John Demeritt, with said Seth Adams, are the trustees named in the deed of trust or mortgage; and this defendant has no knowledge, information, or belief that either of them has lawfully ceased to be such, or that either the said Francis B. Loomis or John C. Stanton has been duly appointed such trustee.

Defendant admits the due incorporation of the Alabama and Chattanooga Railroad Company under acts of the legislature of the State of Alabama.

958 This defendant denies that at the time this bill was filed, or at any time since, the said corporation either owned or operated a railway in the States of Alabama, Georgia, Mississippi, and Tennessee.

This defendant cannot undertake to harmonize or reconcile the following clauses in the bill of complaint:

Folio' 4–5: "That said corporation own and operate a railway in the States of Alabama, Georgia, Mississippi, and Tennessee."

Folio 14: "That said receiver attempted to operate said railway, not only in the State of Alabama, but also in the State of Mississippi, to the entire exclusion of said railroad corporation." This referring to John H. Gindrat as receiver.

Folio 16: "Under which proceedings the said John H. Gindrat
959 was with Samuel B. Jones and John F. Bailey appointed assignees in bankruptcy of said company."

Folio 17: "That under the control of the said so-called receiver and the so-styled assignees the railroad was so managed by them," &c.

Continuation of folio 16: "That the chancellor of said chancery court, in accordance with the prayer of said proceeding, appointed Charles Walsh, a resident citizen of said southern district of Alabama, a receiver of that portion of the Alabama and Chattanooga Railway in the State of Alabama, the said Walsh qualifying as such. * * * * * * * * * That on or about day of , 1871, under a proceeding or petition filed at the instance of the said governor of Alabama, in the district court of the United States for the
960 district of the State of Mississippi, the said Walsh was appointed by the judge thereof as receiver of that part of said railway in the State of Mississippi, and the said Walsh qualified as such receiver, and for a time took possession, used, and operated said railway under said appointment; that some time after said appointment the said Walsh leased or permitted the Mobile and Ohio Railway Company, a corporation chartered under the laws of Alabama, and whose principal office is in the city of Mobile, in said southern district of Alabama, to possess, use, occupy, and operate said railway. That said Walsh as receiver now claims the sole right to use, occupy, operate, and hold that portion of said railway within the State of Alabama and the
961 State of Mississippi under the appointment aforesaid; and the said Mobile and Ohio Railway Company claim to operate the same by their agents and employees under authority from the said Walsh as such receiver; and the said Walsh and the said Mobile and Ohio Railway Company deny the lawful right and authority in any other person or persons or court to possess, use, occupy, or operate the same. * * * * * * That under said proceeding W. T. Wofford, a citizen of said State of Georgia, was by the chancellor thereof appointed receiver of said portion of said railway within said State of Georgia; that said Wofford qualified as such receiver, and since said time has been running and operating said portion of said road within said
962 State to the Alabama line, and also from said line to the city of Birmingham, in the State of Alabama; that said Wofford claims the exclusive right to use and operate said portion of said railway within the State of Georgia, under the authority aforesaid, and is operating and using that part of said railway from the Alabama line to the city of Birmingham, under authority of John H. Gindrat, who claims to have authority to permit such use, in the manner hereinafter set forth. * * * * * * * Complainants state that the said Gindrat, under the authority conferred by said chancellor to take charge of said railway property in the State of Tennessee, has permitted the said Wofford to use and occupy the shops, warehouses, depots, and
963 stores, and run cars over the track."

Folio 22: "The said corporation is unable to continue its business and to operate said road, and have been compelled to discontinue the operation of its said railway."

Folio 43, as amended: "Charles Walsh as receiver, appointed under the courts of Alabama and Mississippi, the Mobile and Ohio Railroad Company claiming possession, and in actual possession of that part of the said Alabama and Chattanooga Railroad from Meridian, in the State of Mississippi, to Birmingham, in the State of Alabama, under a renting or authority from the said Charles Walsh as receiver aforesaid;

W. T. Wofford as receiver, appointed by the chancery court of Dade County in the State of Georgia, and now as such receiver in
964 possession of that part of said Alabama and Chattanooga Railroad from the Tennessee line running through Dade County in the State of Georgia to Birmingham in the State of Alabama; John F. Bailey, John H. Gindrat, and Samuel B. Jones, as assignees of the bankrupt court for the middle district of Alabama, claiming and exercising possession and the right of possession of the Alabama and Chattanooga Railroad from Chattanooga, in the State of Tennessee, through the States of Georgia, Alabama, and Mississippi, to Meridian, in the State of Mississippi; Robert B. Lindsey, who claims to be purchaser at said bankrupt sale."

Folio 48, as amended: "The said Mobile and Ohio Railroad Company, using and occupying said road under the said Walsh as re-
965 ceiver; the said Robert B. Lindsey and the said John H. Gindrat, claiming to act for the State of Alabama in the control of said road."

This defendant, further answering, cannot reconcile or harmonize the following clauses in said original bill:

Folio' 8-9: "The bonds so issued were numbered consecutively from one up to the highest number issued, at said rate of sixteen thousand dollars for every mile of railway by said company constructed."

Folio 10: "That the bonds which were so endorsed by the said governor were not numbered consecutively from one to fifty-two hundred and twenty."

Further answering, this defendant admits the due execution of the said mortgage and trust-deed, with Seth Adams, Francis Dane,
966 and John Demeritt as trustees, as charged in said bill of complaint.

This defendant admits that the said company issued a large number of bonds, and that to secure the payment of four thousand seven hundred and twenty of those bonds, of one thousand dollars each, said deed of trust was executed. That was the entire amount of bonds authorized to be endorsed by the State of Alabama for said railroad company, the same being at the rate of sixteen thousand dollars per mile for its entire length, to wit, two hundred and ninety-five miles. The endorsement by the governor of any first-mortgage or other bonds of said railroad company above the number four thousand seven hundred and twenty was unauthorized by the law and does not bind
967 the State of Alabama.

Defendant denies that the State of Alabama is bound by its endorsement, or otherwise, to pay either the principal or the interest of said bonds in gold coin. Said four thousand seven hundred and twenty bonds were issued and endorsed, aforesaid, for the purpose of raising funds for the completion of the construction and equipment of the railway of said company, at the rate of sixteen thousand dollars per mile of railroad by said company constructed. Admits the correctness of Exhibit B to complainants' bill; admits that the bonds and their several endorsements are all of similar form and import with Exhibit B, except as to the number of the several bonds.

Defendant admits that there were issued and endorsed of said
968 bonds, of one thousand dollars each, five thousand two hundred and twenty, amounting to five millions two hundred and twenty thousand dollars. This was an overissue of five hundred bonds, amounting to five hundred thousand dollars. These bonds are numbered, consecutively, from one to four thousand seven hundred and

twenty, and commencing again with four thousand eight hundred and one, and extending, consecutively, to five thousand and three hundred. Whether the said bonds, eighty in number, beginning with four thousand seven hundred and twenty-one and extending to four thousand eight hundred, have been issued, and whether, if issued, they have ever been endorsed or put in circulation, and whether, if issued
969 and endorsed, they are held by some employee or agent of the corporation, or by some bona-fide holder, or by some one claiming to be a bona-fide holder, and by whom held, this defendant does not know, has not been able to learn, and has no grounds for forming a belief. Defendant has heard, but cannot make it the basis of a belief, that the said Seth Adams, for some reason unknown to defendant, refused to certify said eighty bonds, numbered from 4721 to 4800, inclusive, and that on that account they were not negotiated; and was informed by said Seth Adams about twelve months ago that said bonds were then in his possession.

Defendant admits that said railway has no terminus in the
970 State of Alabama; that its western terminus is at Meridian, in the State of Mississippi; admits that the eastern terminus is in the State of Tennessee, but the railroad is not built or constructed to Chattanooga, or beyond Wauhatchee, on the road from Chattanooga to Stevenson, distant from Chattanooga about miles.

Defendant denies that Chattanooga is the eastern terminus of the said railroad; but admits that it is the contemplated terminus. Admits the length of said railroad is about two hundred and ninety-five miles.

Further answering, this defendant says he does not know that all of the said bonds of the Alabama and Chattanooga Railway Company
971 which were endorsed by the governor of Alabama were disposed of, does not believe they were all of them disposed of in fair course of dealing, does not believe they are all held by bona-fide holders, does not believe that a sale of each of said bonds has been made and concluded according to the terms of the statutes under which it is claimed they were severally issued and endorsed. Defendant does not know or believe that each of said bonds constitutes a lien upon the property, assets, and franchises of said railway company, or that each is entitled to priority over other liens on said railway. On the contrary, this defendant says that all of said bonds so issued and endorsed, over and above the number four thousand seven hundred and twenty, if
972 issued or disposed of, were so issued and disposed of without authority of law, in violation of the provisions of the statutes made and provided, having reference thereto; and to the extent above, this defendant says the holders of said bonds are not lawful or bona-fide holders, and such bonds in excess of 4720 are not embraced in or secured by said first mortgage, and do not constitute a lien upon the property, assets, and franchises of said railway company entitled to priority over other liens on said railway. As will be shown hereafter, this defendant as governor of the State of Alabama has recognized as legally issued and endorsed, and as binding on the State of Alabama, the bonds of said railroad corporation numbered from one up to four thousand seven hundred and twenty consecutively. Whether
973 some portion of said last-described bonds may not be still held by or for John C. Stanton, one of the complainants, or some one or more of his confederates, this defendant reserves the right to show by proper averment and proof.

Further answering, this defendant admits that the said Alabama and Chattanooga Railroad Company failed to pay the interest which

became due on said bonds on the first days in January and July, 1871, and on the first day in January, 1872, and that a large portion of the same has been paid by this defendant as governor of the State of Alabama. The payments made by this defendant as such governor have been as follows: one hundred and sixty thousand dollars of in-
974 terest due January 1st, 1871, one hundred and eighty-eight thousand dollars of interest due July 1st, 1871, and one hundred and eighty-eight thousand dollars of interest due January 1st, 1872, and ordered provision to be made for payment of interest due July 1st, 1872.

Defendant admits that after the failure of said railroad company to pay or provide for said interest, to wit, about day of , 1871, he did claim that he had a right to appoint a receiver to take charge of said railway and its equipments in the State of Alabama, under the 8th section of an act to establish a system of internal improvements in the State of Alabama, approved February 19th, 1867; that he did thereupon appoint John H. Gindrat such receiver, and he, the said Gindrat, took possession of said railroad in the State of Alabama.

975 Defendant admits that said receiver attempted to operate said railway, not only in the State of Alabama, but also in the State of Mississippi, to the entire exclusion of said railroad corporation.

Defendant denies that this was to the irreparable injury of said corporation, or of the complainants, or of the other creditors of said railway company. Defendant says that under said 8th section of said act he had the unquestionable right to appoint such receiver; and the receiver so appointed had the right and authority "to take possession and control of said railroad, and all the assets thereof, and manage the same, and secure the rents, issues, profits, and dividends thereof;" * * * * and to "continue in the possession of said road, fixtures, and equipments, and run the same, and manage the entire road until
976 a sufficient sum shall be realized, inclusive of the costs and expenses incident to such proceedings, to pay off and discharge the interest as aforesaid due on said bonds."

Defendant denies "there was no authority for such action on the part of said governor and the said receiver." He pleads the fact of said non-payment of interest by the railroad company, payment of the same by himself as governor, and the said 8th section of the act aforesaid as his authority and that of the receiver appointed by him.

Defendant admits that the road aforesaid had insufficient equipment for the successful operation of the same; and it was impossible that any net earnings could be realized from the operation of the road. He denies that he turned over said road to other parties.

977 When this defendant appointed said receiver, to take control of said railroad, the said receiver, as defendant is informed and believes, was unable to obtain possession of said road and its equipments. The said railroad had its eastern terminus at Wauhatchee in the State of Tennessee, and its western terminus at Meridian in the State of Mississippi. It extended through a portion of the State of Georgia, and across the State of Alabama. Most of its rolling-stock and much of its property and other equipments were without the limits of the State of Alabama. The said John H. Gindrat obtained possession, as defendant is informed and believes, of that part of said road and its
978 property and equipments which were in Alabama, but could not obtain possession or control of that part of the same which was without the limits of the State.

Creditors of said corporation, as defendant is informed and believes, representing what is known as the floating debt of said railroad, were

clamorous for the collection of their dues; some of them had seized portions of the moveable effects of said company—some under, and some without, legal process; and on like information and belief, defendant says the said corporation was running no trains on many parts of its line; could not run trains the entire length of the road, and had not been able to run such trains the entire length of the road for at
979 least days before the appointment of said receiver by this defendant, and the attempt of such receiver to obtain possession of the road. Being unable to obtain possession of said road, its equipments, and property, this defendant, under the advice of his counsel, caused the said four suits mentioned in the bill to be instituted; the object and aim being to obtain complete possession and control of the road and its property under said statute; to compel the payment by the road of the interest on said bonds, and to foreclose said first mortgage. Those suits are still pending and undetermined in the several courts in which they were instituted. John H. Gindrat was appointed re-
980 ceiver under the said several courts of Tennessee and Mississippi, W. T. Wofford was appointed receiver by the said court of Georgia, and Charles Walsh by the said court of Alabama. Each qualified, and undertook the performance of the trust. This defendant has not seen exhibits 1, 2, 3, and 4 of said bill—they have not been served on him—they are not attached to the copy of the bill which defendant has seen, nor to any copy seen by him. Hence he has no means of knowing, or forming a belief, whether or not said exhibits are correct copies.

Defendant, on information and belief, admits the appointment of Charles Walsh as receiver by the court of Mississippi, but denies
981 that it was done at the instance of this defendant, or that he had any agency or participation in it whatever. Defendant has heard, but has no personal knowledge of the fact, yet believes it to be true, that said Charles Walsh, while for a brief time acting as receiver, made some arrangement with the Mobile and Ohio Railroad under which the cars of the latter were run over said road. Defendant does not know, and has not been informed, what were the terms of said arrangement. He had no agency in making the same.

Defendant, on information and belief, denies that when said bill was filed, for a considerable time before, and through the entire time since,
982 the said Walsh has done any act as receiver aforesaid, or that he claims to be receiver.

Defendant has no personal knowledge on the subject, but on information and belief denies "that the property which could be moved, belonging to said railway company, and which came into the possession of said Gindrat as receiver, has been moved away, sold, or destroyed by said Gindrat, or his employees." On like information and belief, denies that the employees of said Gindrat were either careless or incompetent.

Defendant denies that he as governor signed the bond of said Gindrat as receiver of that part of said road which is in the State of Tennessee, denies, on information and belief, that the property of
983 said railroad subject to said first mortgage has been lost.

Defendant, on information and belief, denies that said Gindrat permitted the said Wofford to move off the company's stores, wood, iron, engines, cars, and machinery; and denies, as aforesaid, that the said Wofford did either of those things, except that it is admitted that said Wofford did use the wood, engines, cars, and machinery of said company, so far, and so far only, as was necessary to the prudent and economical operation of said road. If anything beyond this was done,

defendant denies that it was done with his knowledge, consent, or advice.

This defendant, on information and belief, denies that said
984 Gindrat, when he was appointed receiver by this defendant, took possession of said railway and other property of said company forcibly from the officers, agents, and employees of said company. On the contrary, defendant, on information and belief, states that the possession, use, and employment of said railway and its property had been and was then abandoned by the officers of said company within the States of Alabama and Mississippi, and the same was not then being operated. Defendant denies that the said Gindrat gave no bond or security for the faithful discharge of the duties imposed on him. He did give a bond before he obtained possession of said road as receiver.

985 Defendant, on information and belief, denies that under the control of said receiver, or under the control of the assignees, the said railroad has been so managed by them, or that by their failure to make repairs, or by want of necessary skill and ability to operate said road, the said railroad and railway property have greatly deteriorated in value, or that the same are going to waste and destruction. On the contrary, defendant believes that the said persons in charge of said road and its property have employed their best skill and energy to protect said road and property from damage; and that they have laboured, with all the means said road property supplied, or could be made to yield, in keeping up the repairs of said road and its property.

986 Defendant admits that since said persons took possession of said road, said road has not kept up necessary repairs and paid the expense of operating the same; but it now yields some profit.

Defendant, on information and belief, denies that when said receiver took possession of said road there was any United States through-mail service on the line.

Defendant admits the said railroad corporation was indebted in other sums, and to other parties, in addition to said first-mortgage bonds. Some of said other indebtedness is in the form of second-mortgage bonds, and some of it in what is known as floating debt. Defendant does not know and cannot learn what is the amount of either of these classes of debt, or by whom the same is held.

987 Defendant does not know, does not believe, and does not admit that said railroad and its property are insufficient security for the payment of the interest and principal due and to fall due on said first-mortgage bonds. On the contrary, defendant, on information and belief, answers that said security is ample therefor. The State of Alabama, by its endorsement of said 4,720 bonds, of $1,000 each, is surety of said railroad corporation for the payment of the principal and interest of said bonds; this defendant, as governor of the State of Alabama, under the acts numbers 15 and 16, approved respectively February 25th, 1871, and March 8th, 1871, after ascertaining, in the manner therein provided, that the bonds of said railroad, called
988 first-mortgage bonds, from No. 1 to No. 4720 inclusive, were, on the first day of January, 1871, held by innocent and bona fide purchasers, recognized the same as valid claims against the State of Alabama; and this defendant, as such governor, has paid interest on said bonds after the default of said railroad corporation. All that this defendant has done, or has had done, in connection with said railroad has been dictated and influenced alone by a desire to save said prop-

erty and protect it for the benefit, primarily, of the said State of Alabama and said first-mortgage bondholders. After the default of said Alabama and Chattanooga Railroad, this defendant waited several months in the hope, and upon repeated promises made by them,
989 that the persons having control and possession of said railroad and its property would make provision for the payment of said interest; but he waited in vain. Said interest has never been paid or provided for by said corporation or its officials. Defendant, as governor aforesaid, through his said receivers, and through the instrumentality of the suits described in the bill, finally had said road and property seized, as it was made his duty to do, as the means provided by law for indemnifying the State in the premises.

In answer to the various averments in the bill, charging that this defendant and said John H. Gindrat have in some manner combined with certain others, whereby the said receiver retired from his said pre-
990 tended trust, and caused to be instituted or aided in the prosecution of certain proceedings in bankruptcy before the honorable Richard Busteed, United States district judge for the middle district of Alabama, against the said company, this defendant says:

Some time about June 1st, 1871, one W. A. C. Jones, claiming to be a creditor in the sum of more than three hundred dollars, filed his petition in the district court of the United States for the middle district of Alabama to have said Alabama and Chattanooga Railroad Company declared and adjudged an involuntary bankrupt. Such proceedings were had thereunder as that said railroad company was declared a bankrupt by the honorable Richard Busteed, judge of said court. To this proceeding this defendant gave no assistance, aid, counsel,
991 or approbation. On the contrary, when said adjudication came to be revised before honorable W. B. Woods, circuit judge of the United States, the counsel retained by this defendant to represent the State in the litigation which had sprung up and was likely to continue in the said matter of the Alabama and Chattanooga Railroad Company appeared and assisted on the side of said appeal to have said adjudication reversed, and this at the instance and request of this defendant. On said revision before judge Woods said adjudication was reversed, vacated, and set aside.

In September, 1871, after the said suits in chancery, at the instance of the State, described in the bill, had been instituted, the affairs
992 of said corporation, and the State's connection therewith, became more and more complicated. The road extending into four States, and, to the extent said road lay in the said several States, subject to a separate jurisdiction, this defendant was advised by his counsel, and believed the advice to be just and correct, that to attempt to foreclose said mortgage, or otherwise protect and enforce the just rights of the State of Alabama in the premises, in the four separate, independent, co-equal jurisdictions, would probably be attended with much confusion, great delay, and embarrassments greatly to be deprecated; that the State of Alabama could not be drawn as a suitor into a Federal court without its consent, and that the interests of the State could not
993 be adjudicated or determined in such United States court; that if a valid adjudication in bankruptcy against said railroad company could be had without involving or passing upon the rights of the State of Alabama, and if said mortgaged railroad and its property could be sold through the bankrupt or other court, subject to the liens and paramount claims of the State of Alabama, secured by said first mortgage, this would greatly simplify the issues, and favor the State's speedy de-

liverance from the said embarrassments. All this counsel this defendant approved. This defendant was convinced that said Alabama and Chattanooga Railroad Company had committed acts of bankruptcy, and that those persons who had procured the State's endorse-
994 ment of the bonds of said company, and who had been most active in constructing the road, and in operating and attempting to operate said road, up to the time this defendant appointed said receiver, were not laboring in good faith to pay the interest on said bonds or to relieve the road from its embarrassments. Under these circumstances this defendant caused notice to be given to said W. A. C. Jones that if he would procure a valid adjudication in bankruptcy against said railroad company, limited in its operation as above, this defendant would interpose no obstacle thereto, so long as the rights of the State were not interfered with.

The said W. A. C. Jones, as petitioning creditor, did, about 15th September, 1871, file a second petition in said district court of
995 the United States for the middle district of Alabama—through a portion of which district said road passes—to have said railroad company declared an involuntary bankrupt. Under said petition such proceedings were thereupon had in said court as that, on the 6th day of November, 1871, before the honorable Richard Busteed, judge of said court, said Alabama and Chattanooga Railroad Company was, by the judgment and decree of said court, adjudged and decreed a bankrupt; which judgment and decree remains of full force in said court, unreversed, and not vacated or set aside.

And defendant, further answering, says that under a decree
996 and order of said court the assignees of said bankrupt corporation, John Gindrat, Samuel B. Jones, and John F. Bailey, esquires, having duly advertised said railroad and its property for the space of days, giving notice of time and place of sale, in the Montgomery Advertiser , exposed said railroad and its property and franchise to public sale, for cash, to the highest bidder, at the artesian basin, in the city of Montgomery, in the State of Alabama, on the day of April, 1872, the sale made subject to said first mortgage, subject to the claims of the States of Alabama and Georgia, and to the claims of said first-mortgage bondholders; that at said sale a large number of persons were present; that the sale was conducted
997 fairly and with a view to obtain the highest price; and that this defendant caused said road and its property to be bought for and in the name of the State of Alabama, at and for the price of three hundred and twelve thousand dollars. Said sale has been reported and confirmed, and this defendant has been ordered to be put in possession of said road and property for the State of Alabama.

This defendant denies that he purchased said property on private account; denies that he made the purchase for the State without authority of law. On the contrary, he answers that at the time he made said purchase, and thence hitherto, the State of Alabama had become, was, and is liable, on account of having endorsed and issued
998 bonds in aid of the construction of said road, in each class of liabilities aforesaid separately, in a sum greatly larger than three hundred and twelve thousand dollars; and defendant is advised, and so answers, that under the act to protect the State in its liability on account of railroads, approved February 26th, 1872, he had authority to purchase said railroad and its property for the State of Alabama.

This defendant has no personal interest whatever in the subject-matter of this suit. His entire connection with said railroad and its

property, and all that he has done or advised in relation thereto, has been as governor of the State of Alabama.

He submits to this honorable court whether he can rightfully
999 be sued in this honorable court for actings, deeds, and acts of administration done and performed in his said official capacity.

And this defendant, having fully answered, asks to be hence dismissed with his reasonable costs in this behalf expended, &c.

WATTS & TROY,
E. W. PETTUS,
STONE & CLOPTON,
Solicitors for Defendant.

UNITED STATES OF AMERICA,
Middle District of Alabama:

Before me, George H. Patrick, commissioner of the United States for the middle district of Alabama, personally came Robert B. Lind-
1000 sey, defendant, who, being duly sworn, makes oath that the statements made and set forth in the foregoing answer, when made upon knowledge, he knows to be true, and, when made upon information and belief he believes to be true.

ROBT. B. LINDSAY.

Sworn to and subscribed this July 5th, 1872, before me.

GEO. H. PATRICK,
U. S. Commissioner Middle District of Alabama.

Filed July 6th, A. D. 1872, at 9 a. m.

N. W. TRIMBLE, *Clerk.*

1001 *Answer of Jno. H. Gindrat, filed as an affidavit only.*

The circuit court of the United States for the southern district of Alabama. In equity.

The separate answer of John H. Gindrat, one of the defendants to the bill of complaint of Seth Adams, Francis B. Loomis, and John C. Stanton, trustees for the holders of the first-mortgage bonds of the Alabama and Chattanooga Railroad Company, complainants.

The said John H. Gindrat, as receiver of the State of Alabama, in the control of said road; as receiver of the chancery court at Chattanooga, in the State of Tennessee; and as assignee of the bankrupt court in the middle district of Alabama, answering as aforesaid, says, in reply to the allegations of the paragraph of said bill marked "Number
1002 2," that he admits the complainants, said Adams and Stanton, are non-residents of the State of Alabama, and are citizens of and reside in the State of Massachusetts, and the said Loomis is a citizen of and resides in the State of Connecticut. He does not know, and therefore denies, that complainants, Loomis and Stanton, are the trustees, duly appointed, or acting as such, under the deed of trust or mortgage set forth in said bill. The said Adams is such trustee, as respondent is informed and believes, but respondent denies that he is duly acting as such trustee.

3. Respondent admits that the Alabama and Chattanooga Railroad Company is a corporation created by and existing under the
1003 laws of the State of Alabama, designated in the 3rd and 4th paragraphs of complainant's bill.

4. Answering the allegations of the 5th paragraph of said bill, respondent says the said corporation did at one time own and operate a railway in the States of Alabama, Georgia, Mississippi, and Tennessee, subject to the liens of the State of Alabama and the mortgages or deeds of trust executed by it. But he denies that at the time of the filing of said bill, or at any time since the 22nd of April, 1872, said corporation has either owned or operated said road, as *as* will be hereinafter more particularly shown.

Respondent denies that at the time of filing said bill, or at any time subsequent thereto, he claimed or had any interest in said rail-
1004 way, or any part thereof, either as receiver of the States of Alabama and Mississippi, or as receiver of the chancery court of Tennessee, and the nature and extent of his claim as assignee in bankruptcy will be more particularly shown hereafter.

5. The allegations of the 6th paragraph of said bill are admitted to be true.

6. Answering the allegations of the 7th paragraph of said bill, respondent admits the issuance by said company of a large number of bonds, each in the sum of one thousand dollars, payable on the 1st of January, 1889, with interest at the rate of 8 per cent. per annum, payable on the 1st day of January and the first day of July of each year.

And to secure the payment thereof said company executed said
1005 deed of trust. But respondent denies that either the principal or interest of said bonds was payable in gold coin. After the signing of said bonds by the company and their endorsement by the State of Alabama, and without any authority from the State of Alabama, D. N. Stanton, as the president of said company, appended to each of said bonds the agreement to pay the principal and interest of said bonds in coined money of the United States, a copy of said agreement being the concluding part of Exhibit B, attached to said bill. Respondent denies that said D. N. Stanton, in making said agreement, had any authority from said company so to bind it.

1006 7. The allegations of paragraph No. 8 of said bill are admitted to be true.

8. The allegations of paragraph No. 9 of said bill are admitted to be true.

9. Answering the allegations of the 10th paragraph of said bill, respondent denies that more than forty-seven hundred and twenty of said bonds were ever issued by said company or endorsed by the governor of the State of Alabama. But respondent avers that, in anticipation of the completion of said road, the president of said company, and without the authority thereof, did fraudulently prepare and sign the name of the company, and did fraudulently procure the governor of the State of Alabama to endorse five hundred additional bonds, upon the promise made to the governor that he would not issue or
1007 attempt to dispose of said bonds until the road was completed and until the company should become entitled to the endorsement of the State according to the terms of the law of Alabama under which endorsements were authorized to be made.

10. The allegations of the 11th paragraph of said bill are admitted to be true, except as to the length of said railway railway, which is 292 and not 295 miles long.

11. Answering the allegations of the 12th paragraph of said bill, respondent says that he admits that the forty-seven hundred and twenty bonds which were properly issued and endorsed were disposed of to various persons, whose names and residences are wholly unknown

1008 to complainants. But he denies that the remaining five hundred bonds so fraudulently prepared and signed, and so fraudulently procured to be endorsed by the governor of the State of Alabama, were ever disposed of by said railroad company. Respondent admits that the holders of the aforesaid forty-seven hundred and twenty bonds do claim that each of said bonds is embraced in and secured by said first mortgage and constitutes a lien, as averred in said paragraph. But respondent denies that there is any assertion or pretence of lien on said road in favor of said five hundred bonds so fraudulently prepared, signed, and endorsed as aforesaid.

12. Answering the allegations of the 13th paragraph of said
1009 bill, respondent says that said company failed to pay any portion of the interest due on any of said bonds, on the 1st days of January and July, 1871, and the first day of January, 1872; and that the governor of the State of Alabama paid all the interest due at the respective dates aforesaid on the said forty-seven hundred and twenty bonds, so properly issued and endorsed as aforesaid, but did not pay at either of said dates, or at any other time, any interest on the said five hundred bonds so fraudulently prepared, signed, and endorsed as aforesaid. Respondent states that the governor of the State of Alabama does claim that by reason of the non-payment by said company of said interest, and by reason of the payment of said interest by the State
1010 of Alabama, he has the right, in behalf of the State, to take possession of said road and appoint a receiver to control and manage the same, according to the stipulations and provisions of an act of the general assembly of the State, entitled "An act to establish a system of internal improvements in the State of Alabama," approved on the 19th day of February, 1867. And respondent admits that he was appointed such receiver, and *and* took possession and control of said road in the State of Alabama. And he avers that the claims, actings, and doings of the governor in the premises were proper and lawful.

13. And respondent denies that he ever operated, or pretended to operate, as receiver under the appointment of the governor
1011 of Alabama, any portion of said road in the State of Mississippi, but says that a bill of complaint was exhibited in the name of the State of Alabama, in the circuit court of the United States for the State of Mississippi, against the said Alabama and Chattanooga Railroad Company, and that in said cause he was duly appointed by said circuit court receiver, with authority to take possession and control of all said railway, and of all the property of said corporation then lying and being in the State of Mississippi; that he thereupon accepted said receivership, and as such receiver so appointed by said circuit court, he took possession of so much of said railway and other , as was situate in said State, and that by virtue of that and no other authority, operated the said
1012 railway in Mississippi until as hereinafter shown. And respondent further says that, in operating said railway he did operate the same to the entire exclusion of said corporation, but denies that he operated the same or any part thereof to the injury of said corporation or its creditors, or to the injury of the complainants, or either of them. And respondent avers that the governor of the said State of Alabama was fully authorized in law and equity to do and perform all and singular the same acts by him done and performed, and that this respondent was fully authorized in law and equity to operate said railway as aforesaid.

And respondent says it is true that, owing to the hasty and im-
1013 perfect construction of said road, and the insufficient equipments

thereof, it was and is impossible to realize from the operation of road any nett income over and above the expenses necessary to operate said road, keep it in proper repair, and to furnish additional equipments; and says that the governor did have authority to apply, through his agents, the income arising from the operations of said road to the daily running expenses thereof, and to the repairs of said road and its rolling-stock, and to the construction of side-tracks and other parts of said road. And respondent says that such application of said income was absolutely necessary to the successful use and operation of said road. And respondent denies that the said governor turned over said road to others without color of authority.

1014 And respondent says it is utterly untrue that the governor and himself ever combined with other persons, or with themselves, whereby respondent retired from his receivership, or pretended trust. And respondent denies that he and said Lindsay, either in combinations with others or otherwise, caused any proceedings in bankruptcy to be instituted, or aided in the prosecution of such proceedings before the hon. judge of the district court of the United States.

And respondent, further answering, says it is true that after the seizures of said railway in Alabama by this respondent, under the authority of the governor of said State, suits were instituted on behalf and in the name of the State of Alabama, against the Alabama and Chatta-

1015 nooga Railroad Company, in the circuit court of the United States for the middle district of Mississippi, and the chancery court in and for the county of Sumter, in the State of Alabama, and the chancery court of Dade County, in the State of Georgia, and in the chancery court of Hamilton County, in the State of Tennessee, for the purposes in the bill mentioned, and that Charles Walsh was appointed receiver of that portion of the Alabama and Chattanooga Railroad by said chancery court in Sumter County, and that respondent was appointed receiver by the circuit court in the State of Mississippi of that portion of the road and property of said company which was in the State of Mississippi, and that respondent was also appointed receiver

1016 by the chancery court of Hamilton County, Tennessee, of that portion of the road and property of said company, which was in that State; and that W. T. Wofford was appointed by the chancery court of Dade County, in the State of Georgia, receiver of that portion of said railway and property of said company which was in that State, and that said Wofford, Walsh, and respondent accepted their respective appointments, and qualified as such receivers, but respondent is unable to state whether or no Exhibit one, Exhibit two, and Exhibit three, or either of them, alledged to be annexed to said bill of complaint, *of* true copies of the judicial proceedings aforesaid, as in said bill stated.

And respondent further says that the governor of the State of Alabama, being advised that this respondent had no authority, under

1017 and by virtue of the appointment aforesaid by the said governor, to possess, use, or control any portion of said railway or property outside of the State of Alabama, he caused respondent to be appointed receiver of the property in Mississippi and Tennessee aforesaid, and the said Wofford to be appointed receiver of the property in the State of Georgia, as aforesaid, in order that said property might be harmoniously used and managed to the best interests of all persons concerned; and that said Walsh was appointed receiver in Alabama, with the view of giving respondent all necessary aid in the discharge of his duties, and in protecting the property of said company from the improper interference of others.

And respondent says it is true that shortly after the ap
1018 pointment of said Wofford took possession of and operated that portion of the said road and property which was in the State of Georgia, and under an agreement with respondent, also that portion of the road which extended from the Alabama line to Birmingham in said State.

And respondent further says that in the year 1872 he ceased to be the receiver of said road, under and by virtue of the appointment of the governor the State of Alabama and of the district court of the State of Mississippi, and that shortly afterwards the said Walsh, with the view to the taking of the possession of the said property and managing it, was appointed receiver also by the district court of Mississippi
1019 and took possession of all said property in the State of Alabama and Mississippi, and held possession thereof for a short time; When, under the orders of the aforesaid bankrupt court, the said road and property was placed in the possession and under the control of the said assignees in bankruptcy. Respondent says that shops, depots, store-houses, warehouses, and engine-houses, with a large quantity of moveable property, was situated in Chattanooga, in the State of Tennessee, but respondent denies that said moveable property was of the value of three hundred thousand dollars or thereabouts, and says that he executed a bond for the faithful performance of his receivership, and to have the said moveable property forthcoming to answer any orders of the said chancery court in Tennessee, as by the chancellor
1020 of said court he was required to do.

That the only surety on said bond is Robert B. Lindsey, as governor of the State of Alabama.

And respondent denies that the moveable property of said company which came into the possession of said respondent as such receiver, has been moved away to parts unknown or sold or destroyed by respondent or employees.

And respondent insists that Governor Lindsey had lawful authority to sign said bond, to bind the State of Alabama, and that the State is thereby bound as such surety, and respondent denies that the State of Alabama, through its legislature or otherwise, has ever repudiated any act of her governor.

And respondent says that the allegation in said bill of com-
1021 plaint that the property aforesaid is totally lost, is absolutely untrue, and as the complainants well knew made without any substantial foundation.

And respondent says it is true that he has permitted the said Wofford to use and occupy the said shops, warehouses, and depots, and run engines and cars over the tracks in Tennessee, but respondent insists that such occupation and use of said property has been beneficial to the property and to the interest of all persons concerned.

And respondent denies that he has permitted the said Wofford to move off the company's stores, wood, iron, engines, cars, or machinery, or to use the same in any other manner or for any other purpose than such as he might lawfully do in operating said railway.

1022 And respondent denies that the said Robert B. Lindsey procured the filing of a petition in bankruptcy in the district court of the United States for the middle district of Alabama, under the circumstances, agreement, or understanding, in said bill stated, or under any other circumstances, agreement, or understanding whatever; and denies that said Lindsey ever procured the filing of said petition in bankruptcy, and denies that said Lindsey expected to purchase the said

road for himself; and avers that he purchased said road, not for himself but for the State of Alabama alone, and that said purchase was made under no agreement or arrangement with other persons whatever.

And respondent says it is true that in July, 1871, the said Robert B. Lindsey, as governor of the State of Alabama, in the exercise
1023 of his lawful authority, and in the performance of his official duty appointed this respondent receiver of said railway and other property in the State of Alabama, and that respondent as such receiver took possession of said railway and property; but respondent denies that he took possession of said property forcibly, and denies that he took possession of the same from the officers, agents, or employees of said company; and respondent says, that he, as such receiver, did use and operate the said railway, and such of the supplies and stores of said company, as he might well and lawfully do, and in no other manner. And respondent says that the said Lindsey never received any of the earnings
1024 of said railway during such use and occupancy, and that respondent, as was his duty, received the earnings of said railway through his employees thereon; that the same did not amount to one thousand dollars per day or thereabouts; that none of such earnings were appropriated to the use of respondent or to any unlawful purpose, but were expended in the running, keeping up, and improvement of said railway and property. And respondent avers that as such receiver, appointed by Governor Lindsey as aforesaid, he did give bond and security to the satisfaction of the governor for the faithful discharge of his duties, and respondent denies that the said property is of value of ten million of dollars, and avers that in his opinion it is not worth more than enough to secure the State of Alabama against her liabilities for and on
1025 account of said railroad company. And respondent admits that the said Lindsey, nor himself, have ever accounted to the said railway company or to any court whatever for the earnings of said railway or for the other property taken as aforesaid, and avers that neither he nor the said Lindsey have ever been requested by the said company or required by any court to account for the same or any part thereof.

And respondent denies that either he or the said Lindsey, at the time of filing said bill or at any time afterwards, claimed any right to the possession, use, or occupation of said railway property under the authority in said bill mentioned;

And avers that they abandoned the right to the use and occu-
1026 pation thereof, under said authority, long before the 25th day of May, 1872.

And respondent denies that the said railroad was so managed by said receivers or assignees that, by reason of their failure to make repairs or by their want of due care or by their lack of necessary skill or ability to operate said road, the said road-bed or railway property has greatly deteriorated in value or is rapidly going to waste and destruction; and denies that the said railroad-bed is injured by failure to repair the same, and denies that the locomotives or cars have been injured by lack of care or exposure to the weather; and denies that any other iron rails have been carried away and sold to other parties since respondent took possession of said road, excepting a few old rails which had been
1027 burnt, bent, and rendered unfit for use during the war, which were sold by respondent for about four thousand dollars, the proceeds of which were applied to the benefit of the road; and respondent avers the property of the said company has not been damaged under the control of the said receivers or assignees, or the interest of the bondholders impa'red thereby; and respondent says that if the property

of the company is insufficient to secure the bondholders represented by complainants, it is not because the same has been wasted or injured or impa'red in value since respondent first took possession thereof, for said railway and other property is at least in as good condition and of as much value as when respondent first obtained and took possession thereof.

1028 And respondent says it is not true that by reason of such seizure by him as receiver appointed by the said governor, all through-passenger, express and freight business, including the carriage of the United States through mails, have been diverted to other railways, and respondent says, as said Stanton well knows, that at the time respondent took possession of said railway and for many weeks prior thereto, there were no through-passenger, express, freight business, or United States through mails on said railway, but that a large portion of said road had been utterly abandoned, and its use discontinued by said company for so long a period of time that the grass and weeds with which it was overgrown in many places rendered it unsafe if not im-

1029 possible to run trains upon the road until the same was removed.

And respondent, further answering, says that the said company, as he is informed and believes, was indebted in large sums of money to various persons, over and above its indebtedness by bonds; that, as respondent was informed and believes, the said railroad company while operating said railroad became largely indebted not only to other persons but also to its contractors, laborers, and employees, which said indebtedness the said company has never paid, and has become insolvent and unable to pay the same. But, as respondent is informed and believes, the said J. C. Stanton, the superintendent of said railroad company, could have paid the laborers and employees of the company the wages due them, if he had not improperly diverted and applied a

1030 large portion of the funds of the company to his own individual purposes.

And respondent, further answering, says it is true that the State of Alabama has paid large sums of money on account of the interest which has accrued on said bonds, and that she has a lien on said railway and property for the amount so paid; and respondent says that, in his opinion, the property of said company is not sufficient, and cannot by any human agency be made sufficient, to pay off all the indebtedness of said corporation. It is true that the said corporation is unable to continue its business and operate said road; that, as early as the 9th day of June, 1871, it became unable to continue its business and was compelled to abandon the operation of said railway,

1031 and respondent is unable to perceive how the said corporation or the complainants can be rendered able by the aid of this honorable court to resume the operation of said road with any hope of success.

And respondent further says that the allegations in said bill, as to the conflicting claims set up to said railway and other property belonging to said company by the various receivers and assignees, and as to the consequences, difficulties, and confusions growing out of the same, are fanciful and untrue; and respondent denies that in consequence of such conflicting claims, alleged to be set up by the officers thereof, the said railway is permitted to go to destruction, and denies that the engines, cars, and company's property, either from negligence, mis-

1032 management or want of funds, was or is being damaged to the amount of one thousand dollars per day, or to any other extent, saving such damage as results from the ordinary imprudent use thereof;

and respondent denies that the windows, doors, or furniture have been moved or stolen from the depots or offices along the railway track; and respondent says that, if anything of the sort occurred while he was in possession of the property, it was so insignificant that it was not worthy of consideration; and respondent denies that any of the machinery has been stolen from the shops of the company, and denies that any of the machinery has been moved from the shops, except for the ordinary use thereof of operating the road.

And respondent denies that the engines, cars, or rolling-stock thrown off the track, along the line, were or are permitted to remain where thrown off, without effort by the persons in charge
1033 to repair and put the road in order.

And respondent avers that whenever the engines, cars, or rolling-stock were thrown off the track, as occasionally happened on the said railroad, as on other railroads, the same were not permitted to remain where thrown off, except in one instance when a collision occurred, an unreasonable length of time, but were removed, repaired, and put in order as early as practicable; that for a short while the laborers and employees on the road, while under the care of respondent, were unpaid, but lieu of payment they did not move off, use, or sell, to the best of the knowledge and belief of respondent, any moveable thing of value found on or near the railway depots, offices, or shops of said company.
1034 And respondent says, as he is informed and believes, the laborers and employees of said company, for some time prior to the 1st of May, 1872, and ever since, have been paid off at the end of each and every week.

And respondent, further answering, says it is absolutely untrue that the damage or injury already done to said railway, its equipments, and property by any mismanagement exceeds the sum of one million five hundred thousand dollars, and says that the persons who have represented the damages to said property to be as stated in said bill of complaint, have made representations either ignorantly or corruptly false.

And respondent, further answering, says that the proceedings in said bankrupt court were, as he is advised and believes, in proper form and valid, and are of full force and effect.
1035 And respondent denies that several actions against the said railway company are pending in the courts of the State of Alabama, but says, as he is informed and believes, that some suits were brought in the courts of the State of Alabama against said railway company while the said property was in the possession of the said J. C. Stanton, as the superintendent, appointed by the said company, and before respondent was appointed receiver by the governor, and that said suits were commenced by attachments for unknown sums of money, principally before and within the jurisdiction of justices of the peace; and before respondent was appointed receiver by the governor, portions of the property of said company were seized and taken possession of by
1036 the officers of the law, and removed, under and by virtue of said attachments, and, as respondent is informed and believes, was afterwards sold for the satisfaction of said claims, and that any deterioration in value by waste, in consequence of said sales, occurred prior to the appointment of this respondent as receiver, and that he done all in his power to prevent and set aside sales of property advertised under attachments; that he employed counsel to appear in different courts in the counties in Alabama through which the road run, and did, in several instances, prevent said sales from being made or the property so attached from being removed, and that after he took possession of the

road and property all suits in Alabama not already in execution were stayed or estopped.

And respondent further says, in answer to section number 29 in
1037 said bill, that the State of Alabama paid the interest which had accrued on said bonds, on the first days of January and July, 1871, and on the first day of January, 1872, in the currency of the United States, and was not bound to pay the same, and never agreed to pay the same, in gold coin. And respondent says that he does not know, but does not believe, and therefore denies, that any of the said bondholders who received payment of such interest in currency ever requested complainants to foreclose said first mortgage and trust-deed for the difference between said interest in currency and gold or for any other purpose.

And respondent says that the interest on five hundred bonds purporting to be made by said company and endorsed by said State
1038 has not been paid, and that the governor of Alabama refused to pay the same, not only for the reason that the holders of said bonds would not and could not furnish proof that they were the bona-fide purchasers thereof, but for the further reason that the said bonds had never been sold by said company and could not be lawfully sold and disposed of; and that said J. C. Stanton, in combination with the other complainants and with other persons, fraudulently contrived to induce the governor to pay the interest on said bonds by endeavoring to create the impression that the said bonds had been lawfully sold to bona-fide purchasers when they well knew that such was not the fact.

And respondent denies that, in the chancery proceedings insti-
1039 tuted at Chattanooga, in the State of Tennessee, that he obtained any order for the sale of any portion of the company's property, but says that, on the contrary, he applied for and obtained an order from said court to enjoin the sale of the company's property at Chattanooga, which had been seized by the officers of the law under attachments and executions in suits against said company, long before respondent was appointed receiver by said governor or had anything to do with said property.

And now, respondent further says that he is a citizen of Montgomery, in the State of Alabama, and has had considerable practical experience as a civil and military engineer; that on the 19th day of February, 1867, the legislature of the State of Alabama passed an act entitled "An
1040 act to establish a system of internal improvements in the State of Alabama," which said act was afterwards amended by another act of the legislature; that by said acts, as amended, railroad companies became entitled, on complying with the terms of said acts, to have their bonds endorsed by the State of Alabama; that the Alabama and Chattanooga Railroad Company prepared and issued its bonds from time to time and procured the endorsement of the State thereon, under and by virtue of said act, to the extent of sixteen thousand dollars per mile, amounting in the aggregate to four millions seven hundred and twenty thousand dollars; that said bonds bore interest at eight per cent. per annum, payable on the first days of January and July of each year.
1041 That under some corrupt and fraudulent arrangement by and between William Smith, then governor of Alabama, *of Alabama*, and the said J. C. Stanton and others, about five hundred bonds more than the company was entitled to were endorsed by the said Smith, as governor of the State.

That, by the eighth section of the said laws, it was provided that if the said company should fail to deposit with the comptroller of the State,

at least fifteen days before the interest became due on said endorsed bonds, an amount to pay such interest, or furnish satisfactory evidence that such interest had been paid or provided for, the governor of the State should appoint some suitable person, with authority to take possession and control of said road, and all the assets thereof, and
1042 manage the same, and apply the rents, issues, and profits arising therefrom, in satisfaction of such unpaid interest; that the said company having failed to pay, or to make any provision for the payment on the interest which accrued and became due on said bonds, and that, by reason thereof, the State of Alabama was compelled to pay, and did pay, said interest to the bondholders, amounting in the aggreaate to the sum of three hundred and seventy-nine thousand dollars, or thereabouts; that the said J. C. Stanton, one of the complainants in said bill, was a large stockholder in said company, and the general superintendent of said road, and managed and controlled the same, and the other property of said company, and all its assets, during the time the said road was being constructed and operated by the com-
1043 pany; that, instead of refunding to the State the said sum of money so paid out in satisfaction of the said interest, or making any provision for the payment thereof, the said company, and the said Stanton, on or about the eighth of June, 1871, ceased to control and operate the said road, and caused much the larger portion of the engines and rolling-stock, and a large amount of other stock and materials of said company, to be removed to Chattanooga, in the State of Tennessee; that, in consequence thereof, the unpaid laborers and employees of said road, of whom there were a large number, and to whom large sums of money were then and for a long time past had been due for wages, seized the rolling-stock, and other personal property of said company which had not been removed to Chattanooga, and held a
1044 large portion thereof at Meridian, in the State of Mississippi, and the said road, and the running thereof, was completely abandoned by said company until about 20th day of June, 1871, when trains were irregularly run thereon from Chattanooga, in Tennessee, to Tuscaloosa, Alabama, for a few days; but the road from Tuscaloosa to Meridian, in Mississippi, and the rolling-stock, and other property in Mississippi and along the line of the road from Tuscaloosa to Meridian, was completely abandoned.

That, in consequence of the matters aforesaid, Robert B. Lindsey, as governor of the State of Alabama, appointed respondent, on or about the 26th day of July, 1871, under and by virtue of the acts aforesaid, the agent and receiver of the State, with authority to obtain pos-
1045 session and control of that part of the road within the State, and of the rolling-stock and other valuable property belonging to the company, and to manage the same according to the provision of said laws. In discharge of his duties respondent arrived at Meridian on or about the 28th July, 1871, with the view of obtaining possession of the rolling-stock and other property of said company, in the unlawful possession of a large body of men called "strikers." These men claimed to hold said property as security for the debts due them by the said company for wages. The property appeared to be carefully protected by them from injury or waste, and amounted in value to over two hundred thousand dollars. After some negotiation with these men, respondent succeeded in obtaining from them an engine and passenger-car,
1046 fully manned and equipped, to take him over the road to obtain possession of the portion thereof in Alabama, which respondent had been ordered by the governor to do. Before respondent left Meri-

dian the said employees agreed to guard the said property during his absence, in the name of and for the State of Alabama. Respondent proceeded promptly up the road from Meridian, and at every station the persons in possession of the property of said company yielded up the same, and agreed to hold possession thereof, and respondent thus peaceably obtained possession of the road and property of company in the State of Alabama. Respondent then went to Trenton, in the State of Georgia, where he found three trains of cars held under attachments, issued out of the courts of Georgia at the instance of the cred-
1047 itors of said company. The road was completely blocked, and respondent being unable to make any arrangement with said creditors or to proceed any further or to obtain possession of the said property, left the business to the management of General Clanton, one of the attorneys at law for the State of Alabama, and returned to Meridian to complete negotiations for the possession of the road and property in Mississippi. It was the duty of said company and its agents to place respondent, as the agent and receiver of the State, in possession of said property, but on the return of respondent to Meridian, he ascertained that the said company, acting through its agents, had, by a certain judicial proceeding, obtained an injunction to prevent respondent from moving the said rolling-stock from the State of Mississippi.
1048 Application was then made, in the name of the State of Alabama, to the circuit court of the United States for Mississippi, and certain judicial proceedings were then had whereby respondent was appointed receiver of said property, and the said road and property was seized by the United States marshal of said court and placed in respondent's possession, as receiver and agent for the State of Alabama, upon his giving bond with approved sureties as required by the orders of said court.

The trains of Selma and Meridian Railroad Company had been running over that part of the Alabama and Chattanooga Railroad which extends from Meridian to York station, a distance of about twenty-seven miles, connecting the Selma and Meridian Railroad with the Mobile and Ohio Railroad at Meridian; but when respondent took possession
1049 of the Alabama and Chattanooga Railroad as aforesaid, the trains of the Selma and Meridian Railroad Company had been stopped running from York to Meridian for several weeks, all travel had been interrupted, and transportation of freight and the United States mail entirely suspended, to the great damage and loss to these two important railroads; business and travel on the Alabama and Chattanooga Railroad and transportation of freight and the United States mail had also been suspended for several weeks, and the contract for transporting the United States mail lost before respondent took possession of said road; and the late employees of said road were in such a dissatisfied and turbulent condition, that, in the opinion of respondent and others,
1050 it was unsafe to attempt to run said road without conciliating them. The manager of the Selma and Meridian Railroad (the name of which had then been changed to the name of the Alabama Central Railroad Company) expressed a readiness to aid respondent in all reasonable measures to conciliate the employees, and open the Alabama and Chattanooga Railroad for use. Under the advice of upright counsel, able and learned in the law, and of experienced railroad men, respondent entered into a contract with the manager of the Alabama Central, whereby this respondent as such receiver obtained from him a loan of ten thousand dollars, and in consideration thereof agreed for the running of the trains of the Alabama Central over the Alabama and Chattanooga Railroad from

York station to Meridian, at the sum of one thousand dollars
1051 per month until the said sum of money was thereby returned, and to secure the payment of this sum of money respondent deposited with the Alabama Central Railroad Company the locomotive called the D. N. Stanton. That this agreement was not entered into without hesitation and much deliberation on the part of respondent, but respondent had no money. The legislature of the State had failed to make any pecuniary provision for such a contingency, and the magnitude of the interest involved required prompt action on the part of respondent, and he entered into the said arrangement with no other view than to protect and promote the important interest committed to his charge.

And respondent was the less reluctant to agree to the running of
1052 the road from York to Meridian, for the reason that such privilege had been secured to said company with a slight interruption for years prior to the agreement, and because the use of that portion of the road by him as the receiver of the Alabama and Chattanooga Railroad was interrupted. And respondent states that by the use of this money he relieved the immediate necessities of the employees along the line, thereby obtaining their good-will and aid in successfully, safely, and peaceably running trains over the Alabama and Chattanooga Railroad. And respondent further says that when he took possession of said road and property he found the road from Attalla to Meridian overgrown with grass and weeds, and the track partially covered in many places by land-slides, and in other places with mud and water for
1053 the want of drainage through the cuts; many of the cross-ties are rotten and unfit for use, much of the trestling unsubstantial and needing repairs, the tanks out of order and needing repairs; and respondent says that wood and water had to be supplied, laborers had to be employed, and before that could be done provisions had to be procured. The road had been stripped of all tools and implements of trade, and was destitute of supplies generally. Respondent went to work, repaired the track, tanks, and trestling, replaced the rotten cross-ties with sound ones, supplied the necessary amount of wood and water, furnished provisions, tools, and supplies of all kinds that were needed, and by the 10th of August, 1871, commenced running trains over the road
1054 from Meridian to Attala. Finding that side-tracks were necessary to the running of said road, respondent caused some ten or twelve to be constructed, which were very much needed, and laid down new iron rails thereon. Respondent employed Major H. F. Wheeler superintendent of said road under him, and nearly all of the persons employed by respondent on said road were the same persons that Stanton had in his employment thereon while he was operating said road, including Major Wheeler, the superintendent, who held similar position under Stanton, and were officers well qualified by experience and otherwise for the same. The conductors and other officers whom Stanton had in his employment were employed by respondent in the same or similar positions on said road.

And respondent further says that he never sold, or disposed of,
1055 or permitted any other person to sell or dispose of any of the property of said road, except as is afore stated; that, believing he had the right to do so, he sold the old iron rails before mentioned, and invested the proceeds thereof in necessary improvements on the road.

Respondent does not know, *but* does not believe, that a single pound of new iron was moved from the road while he was in control thereof. A considerable quantity of new iron rails remained along the line of said road at the time respondent ceased to operate the same, and respondent

believes that the said iron has not been removed, except some iron at Attala, which was held by the sheriff of Etowah County, and for which said sheriff is responsible.

1056 And respondent further says that he continued to run the road from Meridian to Attala until as is hereinafter stated, but could not run the same beyond Attala until after the 10th of November, because of the opposition of the attaching creditors of said company in the State of Georgia and of the then governor of the State of Georgia, but while the said road was run by respondent from Meridian to Attala the earnings derived therefrom paid the running expenses, and, up to about the first of November of that year, respondent expended in actual construction on said road the sum of thirty thousand eight hundred and thirty-six dollars and fifty-eight cents, or thereabouts.

And respondent further says that, deeming it essential to procure the control of the other portion of the road and property, and not

1057 having been able to do so peaceably, the State of Alabama filed her bill of complaint in the chancery court of Dade County, in the State of Georgia, to enjoin the aforesaid attaching creditors in said State, and to appoint a receiver of that portion of the road and other property then being in Georgia. The cause was heard on the 18th day of October, 1871, and resulted in the appointment by said court of W. T. Wofford as such receiver, with orders to make some arrangement by which the road might be operated through the State of Georgia. Said Wofford agreeing to act in concert with respondent in running said road, he and respondent repaired to Trenton, Georgia, where the three trains remained under attachments, and which we expected would be surrendered; but, contrary to the just expectations of Wofford and respond-

1058 ent, one Bullock, then governor of the State of Georgia, being thereto instigated, as respondent is credibly informed and believes, determining to prevent the surrender of said property under the order of said chancery court, appointed an agent, place' him in possession of that property, issued his proclamation, refused to give up said property, and set the order of the chancery court at defiance. Shortly afterwards Governor Bullock resigned, and Governor Conley, his successor in office, consented to deliver up said property to the said receiver, and thereupon, to wit, on the 10th day of December, 1871, an arrangement was consum'ated between said Wofford, as such receiver, and this respondent as receiver aforesaid, for operating the Alabama and Chattanooga Railroad its entire length. This agreement was drawn up in writ-

1059 ing and executed, and was submitted by respondent to the governor of the State of Alabama a few days afterwards for his approval, and he did approve the same. By this agreement either party could dissolve the same upon giving ten days' notice, or immediately, by mutual consent. Under this arrangement passenger and freight trains immediately commenced running daily upon schedule time from Chattanooga to Meridian, making due and proper connections.

Respondent further says that, in order to obtain possession of so much of the road and property that was situated in the State of Tennessee, the State of Alabama filed a bill in the chancery court of Hamilton County, in the State of Tennessee, to enjoin the attaching and execution creditors of said company from selling the property of said

1060 company which had been seized under the said attachments and executions, and for the appointment of a receiver; and, in conformity to the prayer of said bill, the said chancery court did enjoin said creditors from selling said property, and appointed this respondent receiver. And respondent says, upon information and belief, that said J. C. Stanton

and the other complainants, Carlile, the agent and affidavit-maker of said Stanton and Drake and others, their confederates, combined together to throw every obstacle they could devise in the way of respondent and thereby prevent the successful operation of said road, with the view of regaining possession of said road and property, and defrauding the State of Alabama and other creditors of said company;

1061 and that, in order to carry out their unlawful purposes, they caused a suit to be instituted in the district court of the United States in and for the State of Tennessee, in the name of an alleged creditor of said company, to have the said company declared and adjudicated a bankrupt under the act of Congress in such cases made and provided, although they well knew that proceedings were pending in the district court of the United States for the middle district of Alabama. And respondent says that the said proceedings in the district court in Tennessee, as he is informed and believes, were defeated because the said corporation was created and existed under the laws of the State of Alabama, and because the district court of the United States for the middle district of Alabama had first acquired jurisdiction of the case, and respondent says, it is a fact of some

1062 significance that Samuel F. Rice, whose law-partner is J. M. Chilton, and who is the general retained attorney of said J. C. Stanton and said railroad company, appeared as counsel for said company, and resisted the putting of the said company in bankruptcy in and by the district court of the United States for the middle district of Alabama, and also appeared as counsel for the creditor in the judicial proceedings instituted in the said district court in Tennessee, to declare said company bankrupt. And respondent further says that afterwards, in order to carry out the schemes of the said confederates, a bill was filed in the circuit court of the United States for the southern district of Alabama, in the name of the said Drake, against the said Alabama

1063 and Chattanooga Railroad Company, J. C. Stanton, this respondent, and others, for the purpose amongst other things of taking the property out of the possession of this receiver as aforesaid, and of placing it in the possession of some other person; that upon the hearing of the application for the appointment of *of* a receiver and granting of an injunction, the court refused to grant said application and held that the proceedings in bankruptcy in the district court of the United States for the middle district of Alabama as to said corporation are valid and binding, which said suit is still pending and undetermined in said circuit court, and that very many of the charges contained and issues presented in the bill of complainants are made and *and* presented in

1064 the bill in which said Drake is complainant. And respondent says that at the time said Drake filed his said bill of complaint he was, as respondent believes, and still is, the president of said company, and that the said Samuel F. Rice, though then the general retained attorney of said J. C. Stanton and said company, nevertheless acted as counsel and represented Drake in said suit, and his partner, J. M. Chilton, appeared for and represented the said railroad company and J. C. Stanton in said suit; that no process had been served upon said company or upon said J. C. Stanton; that yet said Chilton, as their attorney, appeared and waived service of process, declaring at the time that he was authorized so to do.

1065 And respondent says that said Chilton frequently and openly engaged in conference with the counsel of said Drake touching said cause during the progress and hearing thereof.

And respondent further says that the said J. C. Stanton, in combina-

tion with his other confederates, in order to carry out their said schemes filed in this honorable court a petition in the name of Sylvester Stevens, one of the said confederates, to revise and set aside the decree of the district court of the United States for the middle district of Alabama, declaring said corporation a bankrupt, to which petition this respondent and others are made defendants, and respondent says that the said petition, upon the hearing thereof before the honorable W. B. Woods, judge of this honorable court, was dismissed, and the said proceedings in bankruptcy adjudged to be regular, valid, and binding.

1066 And respondent further says that the said petition of the said Stevens and the said bill of the said Drake, or the amendments thereto, were ratified by the said Carlisle, as the agent of said Drake and of said Stevens, all which will fully and particularly appear by reference to the record and proceedings in said causes remaining in this honorable court.

And respondent further says, as he is informed and believes, that the said confederates, in order to carry out their aforesaid schemes, have caused this suit to be instituted and have introduced in their said bill many of the false and scandalous charges which this respondent had previously refuted, and have attempted to sustain the same by the affidavits of many of the same persons whose affidavits were used

1067 by them in the case of Drake, and thus they attempt to retry the same questions in suits brought in the name of different persons. And respondent further says that, on the 6th day of November, 1871, the said Alabama and Chattanooga Railroad Company was declared a bankrupt in and by the judgment of the district court of the United States for the middle district of Alabama; that afterwards, to wit, on the 22nd day of April, 1872, the Alabama and Chattanooga Railroad, and rolling-stock and other property belonging to said company, were sold by this respondent and the other assignees in bankruptcy of said bankrupt corporation, under and by virtue of and pursuant to a decree of the honorable district court aforesaid. That at said sale the State of Alabama, through its governor, R. B. Lindsey, became the

1068 purchaser of said road and other property. That afterwards the said sale was duly reported to said district court by said assignees, and on the day of May, 1872, the said report and sale were duly confirmed by said court, and the State of Alabama ordered and allowed to be in possession of said property, all which will fully appear by reference to the record and proceedings of said district court, a true copy whereof will be introduced on the hearing of this application.

And respondent further says that the State of Alabama now is and ever since the ratification of said sale has been, as respondent is informed and believes, in the sole possession and use of said property through its authorized agents. And respondent says, as he is

1069 advised and believes, the State of Alabama is the sole owner thereof.

And respondent further says that after he was appointed, and while he was acting as agent and receiver of the State of Alabama, he was also appointed in connection with others, by the said district court, custodian of said railroad and other property, and that respondent accepted this appointment upon the express condition that it should not in any manner interfere with his rights and obligations as agent and receiver of the State; and respondent believes that this appointment was conferred upon him by the court, to secure the preservation of said property without conflict with the rights and authority of the State. And respondent says that he never possessed or controlled or exercised any authority over any of the property as such custodian.

1070 And respondent further says that afterwards he was elected one of the assignees in bankruptcy of said corporation, which said election was confirmed by the court and accepted by respondent as the law requires. That, in accepting said appointment, respondent did not intend to vacate or resign, and in fact did not vacate or resign, his previous appointments as agent and receiver as aforesaid, but thereupon continued to hold, manage, use, and control such of said property as came into his possession as agent and receiver aforesaid, and not as assignee in bankruptcy; and respondent avers that neither he nor his co-assignees ever exercised any control or authority over any of said property, as such assignee or assignees, until after this respond-
1071 ent resigned or ceased to act as such agent or receiver, which was about the 25th day of February, 1872.

And respondent says that at the time that he ceased to control said property as aforesaid, the said road, rolling-stock, and other property was in as good condition as when he first took possession thereof, and that for some weeks before the 25th day of May, 1872, and ever since that time, the said road and rolling-stock has been kept in good repair and been well and efficiently managed, and that freight and passenger cars have been regularly run thereon on schedule-time, making regular and proper connections; and that under the authorities of the State, the said road and property has not deteriorated, wasted, or become impared in value, and that said road is in better condition than it
1072 was when said company ceased to operate it. That the said road and property, as respondent is informed and believes, is under the sole authority of the State, without any such conflicting elements, disputes, or discord as in said bill stated. And respondent says that, while he was managing said road, he was much embarrassed in the discharge of his duties, by the emissaries of said Stanton and others, employed to produce discontent amongst the laborers and employees on said road, and also by the harassing and laborious litigation aforesaid to which he has been subjected, whereby his presence at Mobile and other distant places has been often necessary, and on such occasions the said emissaries would take advantage of the absence of respondent, and
1073 by various misrepresentations endeavoured to excite discontent amongst the employees.

JOHN H. GINDRAT.

SOUTHERN DISTRICT OF NEW YORK,
City and County of New York, ss:

On this third day of July, personally appeared before me John H. Gindrat, to me personally known, and swore that the foregoing affidavit was true as to his own knowledge, except as to such matters therein contained on information or belief, and as to such matters he believes the same to be true.

R. E. STILWELL,
U. S. Comm'r for the Southern Dist. of New York.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Kenneth G. White, clerk of the circuit court of the United
1074 States of America for the southern district of New York, second circuit, do hereby certify that I am well acquainted with the handwriting of R. E. Stilwell, whose name is subscribed to the annexed jurat, and that the signature to the same is in his proper handwriting. And I do further certify that he was, at the time of signing the same, a United

States commissioner, duly appointed by the circuit court of the United States of America for the southern district of New York, second circuit.

In testimony whereof I have hereunto subscribed my name and affixed the seal of said circuit court, this 3rd day of July, in the year of our Lord one thousand eight hundred and seventy-two, and of the Independence of these United States the ninety-sixth.

{ SEAL OF U. S. CIR. COURT FOR SO. DIST. OF NEW YORK. }

KENNETH G. WHITE, *Clerk.*

Filed July 6th, 1872, at 7.45 p. m.

N. W. TRIMBLE, *Clerk.*

1075 *Affidavit of Samuel B. Echols.*

Circuit court of the United States for the southern district of Alabama.
In equity.

SETH ADAMS, FRANCIS B. LOOMIS, & J. W. C. Stanton, trustees, &c., complainants,
vs.
THE ALABAMA & CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippett, & Daniel N. Stanton, as trustees, &c., et als., defendants.

I, Samuel B. Echols, being duly sworn, depose and say that I am 37 years of age, and reside and for the past two years have resided at Attalla, in the county of Etowah & State of Ala., & have been merchandizing at this place most of the time.

I have received the affidavit in this cause filed purporting to have been made by P. J. Smith and William George before Daniel J. Duffy, U. S. commissioner, on the 1st day of June, 1872, and I know of the property, viz, lard-oil, coal-oil, vice, nails, & tools, alleged in said affidavit to have been stored in the round-house & station-house at Attalla, and have been sold by the agents & employees of the receiver of the State of Alabama, to private parties for their personal use. I
1076 have never known or heard of any charges of the character mentioned in this affidavit being made against any other agent of the Alabama & Chattanooga Railroad at Attalla, except one Duncan, and what I know about the truth or untruth of said charges against Duncan is as follows:

I was merchandizing near the station-house at Attalla, and had a good and secure safe; and the said Duncan, while he was agent, & his predecessors, were in the habit of depositing the books, papers, money, & other valuables of the railroad & express offices in my safe for security and safe-keeping; and I became & was for a long time the custodian and depository of such books, papers, & valuables. Among the papers so deposited with me was the original inventory of the property received at Attalla by the said Duncan, and his receipt for the same, and there remained in my possession during the time the said Duncan continued to be agent as aforesaid, & I, therefore, knew really what property he received & went into possession of; and when the said Duncan was discharged and came to make settlement of his agency, with Col. Gindrat, the receiver under the State of Alabama, this original

1077 inventory and receipt was made by the same. I was present when Col. Gindrat & Mr. Duncan had this settlement, and went over the list of the property with them, & register'd in the settlement every item of property which had been originally received by said Duncan was turned over & accounted for except the following:

Two-thirds of a barrel of lard-oil, which was alleged by Duncan to have been destroyed & made way with by the strikers on the road; about five gallons of kerosene-oil which Duncan has removed from the round-house and let some citizens of Attalla have, telling them that they could account to the railroad for the same; a part of a keg of sprigs of small value.

The valu*re* of these articles, including the lard-oil, was about forty dollars, and, exclusive of the same, was some three or four dollars. I have dealt in such articles and know their value. On said settlement with Col. Gindrat the articles above mentioned were accounted for by deducting the value of the same from Duncan's wages. Col. Gindrat did not pay Duncan any money, & stated that his wages would equal the value of the dif'erent articles. The said original inventory was never out of my possession, until it was turned over to Col. Gin-
1078 drat for the purposes of said settlement, & the said P. J. Smith & William George never saw it, & could not have known the quantity & value of the articles received by the said Duncan.

I have known the successors of Duncan as agent of said road at Attalla up to the present time, & know that they are honest and reliable men. I have never heard it charged that they or any of them ever sold or otherwise improperly disposed of any property of the road at Attalla of the kind mentioned in said affidavit, or any other kind.

S. B. ECHOLS.

Sworn to & subscribed before me by the said Samuel B. Echols, of whose personal identity satisfactory proof has been made to me, all on this the 2nd day of July, A. D. 1872.

HUGH S. D. MALLORY,
U. S. Commissioner for the Middle District of Alabama.

Filed July 6th, 1872.

N. W. TRIMBLE,
Clerk.

1079 *Affidavit of Samuel Orr.*

Circuit court of the United States for the southern district of Alabama.
In equity.

SETH ADAMS, FRANCIS B. LOOMIS, & JOHN C. Stanton, trustees, &c., complainant',
vs.
THE ALABAMA & CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippett, & Daniel N. Stanton, as trustees, &c., & other', defendants.

I, Samuel Orr, a resident citizen of Attalla, in the county of Etowah & State of Alabama, being sworn, make oath & say that I am 37 years old, and *and &* for the past two years have been engaged in merchandizing at Attalla. I have read the affidavit, in this cause filed, of P. J.

Smith & William George, purporting to have been made 1st of June, 1872, & I know of the property therein mentioned. It was of much less value than is there stated, and such as there was, was in the possession of one Duncan, who was at the time railroad agent at Attalla. I know it was charged that said Duncan sold or otherwise disposed of some portions of this property while he was such agent, but do not know whether the charges were true or not. This was before the State
1080 of Alabama obtained the actual possession of the Alabama & Chattanooga Railroad.

Samuel B. Echols was at that time a merchant in Attalla and was & for some time had been the custodian & depository of the books, papers, and valuables of the railroad & express companies at Attalla. He had a good safe and these things were deposited with him for safe-keeping.

I know & have all the time known *that* the several railroad agents, Mr. Fugua, Mr. Burns, & Mr. Williams, at Attalla, since the State came into possession; they are honest & reliable men, and I have never known it charged that they ever sold or otherwise improperly disposed of any property of the road, at any time or to any person.

As a merchant I have considerable dealings with the said road; and its present management from Birmingham to Chattanooga (I know nothing about the southern division) is giving general satisfaction. The trains run with regularity, make their connections, stop and deliver freights with punctuality & at reasonable rates. The road carries the mails & express & appears to be doing well. Th' road is evidently not deteriorating, but is improving.

SAMUEL ORR.

1081 Sworn to & subscribed before me by the said Samuel Orr, of whose personal identity satisfactory proof has been to me, on this 20' day of July, A. D. 1872.

HUGH S. MALLORY,
U. S. Commissioner for the Middle District of Alabama.

Filed July 6th, 1872.

N. W. TRIMBLE, *Clerk.*

1082 *Affidavit of E. M. Burton.*

Circuit court of the United States for the southern district of Alabama.
In equity.

SETH ADAMS, FRANCIS B. LOOMIS, & JOHN C. Stanton, trustees, &c, complainants,
vs.
THE ALABAMA & CHATTANOOGA RAILROAD CO., Lewis Rice, A. C. Lippett, & Daniel N. Stanton, as trustees, & others.

Personally appeared before me, Hugh S. D. Mallory, a United States commissioner appointed by the district court of the United States for the middle district of Alabama, E. M. Burton, who, being by me first duly sworn, says that he is fifty-seven years old, & resides in the city & county of Tuscaloosa, in the State of Alabama, where he has continued to live for the last thirty years; that being on the line of the Alabama & Chattanooga Railroad he knows much of matters & things connected with it; among other things, he well remembers that shortly after trains began to run the entire line of the road from Chattanooga to Meredian,

in the latter part of the spring, 1871, the road here was abandoned by the company, and the subcontractors, employees, & laborers along the line who had been engaged in the construction of the road com-
1083 plained much that they had not been paid for their services, & expressed great bitterness against those who had the management of the construction, especially against John C. Stanton; that during this time, when the road was not running, about the middle of June, 1871, as the regular deputy sheriff of said county of Tuscaloosa, he received from *from* Mr. Etheldred Philips, the telegraph & operator at Tuscaloosa, a telegram, dated Chattanooga, June 15th, 1871, directed to the "sheriff," stating as follows in substance and effect: "A mob of men stole a train which had been attached here & was in the custody of the law. Please stop it as stolen property; get a posse of citizens and hold it for further orders." This dispatch was signed "J. S. Kennedy," and was received in due time, and on the following morning (the 16th June, 1871) an engine with a train of cars passed Tuscaloosa in the direction of Meredian, some of those in charge of said train stating that they were creditors of the railroad company & lived at or near Meredian, & that they had seized said train. Said train passed on down the road under the direction & in possession of the same parties; that said J. S. Kennedy, at the time referred to, was known to be the confidant & friend of said J. C. Stanton & was holding consultations with him tending the interest of the A. & C. R. R., & has been in strong
1084 favor with him, & is one of the directors of said railroad company; that at this time the State had not *or* yet obtained possession of said road nor any of its property; did not so obtain possession for some months or two afterwards. During the interval embracing the time which occurred from the abandonment of the road by the company & the possession of it by the State through Mr. John H. Gindrat as the receiver, a great deal of property which had been used in the construction of said railroad, such as dum' & carts, wheelbarrows, shovels, picks, blacksmith-shop tools, & were sold in the city of Tuscaloosa.

Said E. M. Burton further states that ever since the State has had possession of said Ala. & Chattanooga Railroad said J. C. Stanton & those who favor his interests have been doing much injury to the management & successful running of the road by stirring up dissatisfaction among the agents, employees, & laborers thereof, disparaging its agents and taking & urging suggestions & positions calculated to destroy the hope of the laborer to be rewarded for his services—are quite common with those who desire Stanton's re-instatement & to be repossessed of the road. The road is now in successful operation, there being regular passenger & freight trains running each way every day, with most ample & ready *receivers* for transportation of passengers & freight wherever needed & called for.

E. M. BURTON.

1085 Sworn to & subscribed before me by said E. M. Burton, of whose personal identity satisfactory proof has been made to me, all on this 3rd day of July, A. D. 1872.

HUGH S. MALLORY,
U. S. Commissioner for the Middle District of Alabama.

Filed July 6th, 1872.

N. W. TRIMBLE, *Clerk.*

Affidavit of F. P. Corby.

Circuit court of the U. S. for the southern district of Alabama. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, & JOHN C. Stanton, trustees, &c., complainants,
vs.
THE ALABAMA & CHATTANOOGA RAILROAD Company & Lewis Rice, A. C. Lippett, & Daniel N. Stanton, as trustees, &c., & others, defendants.

I, F. P. Corby, a resident citizen of the city of St. Louis, in the State of Missouri, being first duly sworn, make oath & say that I am & was in the month of September, 1871, a member of the mercantile firm of Corby & Co., which was & is composed of myself & H. L. Fose; that about the month of September, 1871, the said firm, through E. F.
1086 Ravith, the superintendant of the Vicksburg & Meridian Railroad Company, negotiated for & purchased a lot of old iron rails from H. F. Wheeler, the superintendant of the Ala. & Chattanooga Railroad, under John H. Gindrat, the then receiver of the same; that said lot of iron amounted to about (49) tons, & included no new iron rails, but consisted exclusively of old iron rails, many of them warped, apparently from having been burned, & all of them useless except to be rerolled. The said firm never received, purchased, or contracted for any new iron rails from the said Wheeler or the said Ala. & Chattanooga Railroad Co., or the said receiver of the same, or from any one else purporting to represent or to be in any way connected with the same.

F. P. CORBY.

Sworn to & subscribed before me by the said F. P. Corby, who is personally known to me, on this the 1st day of July, A. D. 1872.

J. H. CLARK,
U. S. Commissioner for the Eastern District of Missouri.

Filed July 6th, 1872, at 9 a. m.

N. W. TRIMBLE, *Clerk.*

1087 *Affidavit of J. H. Riffle.*

Circuit court of the United States for the southern district of Alabama. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, & JOHN C. Stanton, trustees, &c., complainants,

THE ALABAMA & CHATTANOOGA RAILROAD Company & Lewis Rice, A. C. Lippett, & Daniel N. Stanton, as trustees, &c., & others, defendants.

I, J. H. Riffle, being duly sworn, make oath & say that I am 37 years of age, & reside now at Birmingham, in the State of Alabama. For the twenty-two years last past I have been exclusively engaged on railroads,

in almost every capacity, from section-master up to superintendent within that time. I have been employed on the Hudson River Railroad, the New Jersey Central, the Mississippi Central, the Memphis, Charleston, & others. For several years I was the superintendant of the Selma & Meridian, now the Alabama Central R. R., & I am now a contracter for & engaged in bridge-building on the said Alabama Central & the North & South Road, extending from Montgomery to Decatur, Alabama. For the past two & a half months I have been at & in vicinity of Birmingham, where the line of the Ala. & Chattanooga Railroad crosses that of the North & South. I have travelled a good deal over the line of the former, especially from Birmingham to Chattanooga. I had no-
1088 ticed the rolling-stock, both as it arrives at & departs from Birmingham & along the line of the road. I am acquainted with many of the officers & employees of the road, & have had good opportunities of judging of its condition & the character of its management. The road & track are in good order & are properly kept up, and the rolling-stock is in good condition & repair. I am acquainted with Col. Harcruz, & was with the superintendants of the southern & northern divisions of the road, respectively, & many of their subordinates personally; by reputation & by seeing how their several departments are administered, I know them to be railroad men of experience, & that they are sober, competent, & efficient. From what I know & see of the practical workings of the road, I would have no hesitation in saying that the road is now being vigorously & efficiently managed. Passenger & freight trains run daily over the road, carry the express, the U. S. mail, & all the passenger' & freights offering, & making their regular connection. The business of the road appears to be on the increase, and from what I see of it, both in the passenger & the freight department, I am satisfied that the road is not loosing ground, but is gaining, & that its savings are more than its running expenses.

J. H. RIFFLE.

1089 Sworn to and subscribed before me by the said J. H. Riffle, who is personally known to me, on this the 4th day of July, A. D. 1872, & written by him in pencil, ink being inaccessible at the time the signature was made.

Witness my hand & seal of office on this 4th day of July, A. D. 1872.

HUGH S. MALLORY,
U. S. Commissioner for the Middle District of Alabama.

Filed July 6th, 1872.

N. W. TRIMBLE, *Clerk.*

Affidavit of F. R. White.

Circuit court of the United States for the southern district of Alabama.
In equity.

SETH ADAMS, FRANCIS B. LOOMIS, & JNO. C. Stanton, trustees, &c., complainants,
vs.
THE ALABAMA & CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippett, & Daniel N. Stanton, as trustees, & others, defendants.

I, Franklin R. Whitt, being duly sworn, make oath & say that I am 26 years, & reside, & for the past two years have resided, at Attalla, on

the line of the Alabama & Chattanooga Railroad; that I have
1090 read the affidavit in this cause filed, & purporting to have been made by P. J. Smith & William George on the 1st day of June, 1872; that I was acquainted with the amount, description, & character of the property of the kind mentioned in said affidavit as being stored at Attalla; that at the time J. C. Stanton quit running the said road there was a small amount of oil stored there & some other things of inconsiderable value. I was at that time in the round-house & station-house almost every day, & the value of said articles did not exceed one hundred dollars; according to my best judgement it did not exceed fifty. This property was in the charge of one Duncan, who was at the time telegraph operator, express agent, & railroad agent here. During the interval between the time said Stanton quit running the road and the time when the State of Alabama took possession of it, Mr. Duncan caused small quantities of this oil to be distributed among the citizens of this place, saying that he was afraid to allow it to remain in the round-house, because at that time there was some disturbance on the line of the road among employees, & that the oil might be ignited & burn the round-house down. He did not sell said oil, and refused to re-
1091 ceive money for it, but told those who received it to account to the road for it thereafter. Mr. Duncan boarded at my house at the time & sent me two gallons of the oil on the terms above mentioned. This was before the State took possession of the road. When the State took possession it N. B. Fugua was sent here as agent. I do not know of Mr. Duncan's ever disposing of any other property of the road than that above mentioned, & I do not know & never heard of any property of any description belonging to the road at Attalla which was sold or was otherwise improperly disposed of by the agents or employees of the State after the State took possession of the road.

F. R. WHITT.

Sworn to & subscribed before me by the said Franklin R. Whitt, of whose personal identity satisfactory proof has been made to me, all on this the 20' day of July, A. D. 1872.

HUGH S. D. MALLORY,
U. S. Commissioner for the Middle District of Alabama.

Filed July 6th, 1872.

N. W. TRIMBLE, *Clerk.*

1092 *Affidavit of R. C. Randolph.*

Circuit court of the United States for the southern district of Alabama.

SETH ADAMS, FRANCIS B. LOOMIS, & JOHN C. Stanton, trustees, &c., complainants,
vs.
THE ALA. & CHATTANOOGA RAILROAD COMPANY, Lewis Rice, A. C. Lippett, & Daniel N. Stanton, as trustees, &c., & others, defendants.

I, Robert C. Randolph, a resident citizen of Tuscaloosa City and County, State of Alabama, being duly sworn, make oath & say that I am the treasurer of the Ala. & Chattanooga Railroad, & have been ever since the same was taken possession by John H. Gindrat, as receiver for the State of Alabama, in August, 1871. About the time said receiver

took possession of said road, I passed over its whole line in a hand-car for the purpose of establishing agencies at the different stations, & I have frequently since passed over various portions of the road in hand-cars. I am therefore well acquainted with the condition of the road at the time said receivers took possession, and have ever since been familiar with the condition of the same & its rolling-stock, affairs, & general administration.

1093 At the time the receiver took possession the road from Meridian to York was apparently in bad condition; the road-bed was good between these points, but many of the cross-ties were rotten and useless, the track was out of line, the joints of the rails were not properly connected, and the rails for the most part had been burned, were crooked, & were comparatively unfit for use. That part of the road between York & Eutaw was almost impassable at that time; the cross-ties, many of them, had sunk in the soft prairie-mud out of sight, & the rails were bent down on account of the irregularity of support. The road for about a mile northward from Eutaw had to be built anew; the cuts were widened & a new road-bed thrown up. From about the 16' of August the receivers had some fifty or sixty hands at work for several weeks on that part of the road. The trestling on the road between Eutaw & Tuscaloosa was in bad condition. What is known as Beaver Pond trestle had sunk about half a foot & had to be re-established at considerable labor & expense, & for a period of two months after the receiver took possession there were between forty & fifty carpenters & workmen constantly employed on the trestling between Tuscaloosa & Carthage. These men received carpenters' wages, from two to three dollars per day. It was impossible at first to run a train from

1094 Tuscaloosa to York without its getting off the track one or more times during the trip. I was myself on the train several times, about that time, when it ran off on account of the bad condition of the road & track; and it was not until about the first of October, 1871, after nearly two months of such labor had been expended on the road by the receiver, that the road became really practicable & trains could run on time and make connection. The road from Tuscaloosa to Chattanooga was in much better condition than in the southern division, but even upon that portion, as along the whole line, the track was so overgrown with grass & weeds as to be impassable until the same were cut down & cleared off; on that portion also there was a large cut near Kennedale, on which there were frequent land-slides in consequence of the banks not having been properly sloped. There were, too, some nine or ten miles of temporary tracks near Tuscaloosa, diverging from the established survey to avoid heavy & expensive cuts & fillings. There was some temporary trestling near Kennedale & a mile or two of road near Jonesboro', on which work had to be done to put it in order. At Red Gap there was considerable cutting & digging out & removing of

1095 the slides needed. Near Athville Station also there was some three or four miles of road in bad order, & where the road-bed had to be renewed & the track raised.

The receiver on taking possession placed & kept competent bridges and construction forces distributed along the line of the road from Attalla to Meridian, & by reason of the matters aforesaid succeeded by about the 1st of October, 1871, in getting the road in fair condition, and it has ever since been kept in good condition with the exception of a few slides; the receiver also added a number of side-tracks to the road, several water-tanks & cutters, platfo'ms at various stations, built a depot at Tuscaloosa, & otherwise permanently improved the road. I

have no hesitation in saying that the road is now in much better condition than when he received it. The bridges & trestles are also in better condition & the rolling-stock of the road, with the exception of ordinary wear & tear & usual accidents, is in as good condition as when received. It is not true, as alleged in certain affidavits in this cause filed on behalf of the complainants, that while said receiver was in possession of the road, engines & other rolling-stock were "ditched" & allowed so to remain without attempt at reclamation & repair;
1096 some collisions & running off the track have occurred during that time, but not more than an incident to the running of new railroads generally, in my opinion, and in every such case the damage has been repaired & the property reclaimed and restored to use by the proper officials with the ordinary dispatch & diligence. I have known of every such case of damage, & the money expended in repairs has been disbursed by me as treasurer. During that time there was but one engine "ditched" & left unreclaimed, & this was because the engine was so injured by a collision as to be past restoration; this was "engine No. 10," destroyed by a collision near York station through the gross negligence of the conductor or engineer, one or both, & this was a contingency against which there is no provision that I am aware of. The remedy is to discharge the negligent parties, and this was promptly done in this case.

And it is not true as alleged in said affidavit, that during said receivership lumber, tools, material, & other property of the road were seized & sold under attachments or other legal process without objection on the part of said receiver; besides, being a good deal on the line of the road myself, I was well advised of what was transpiring along the line, & I knew of no such sales. There were sales of property belonging to said road, attached or levied
1097 upon by employees or other creditors of the same under J. C. Stanton's administration, & during the interval between his & the said receiver's administrations, but not after. The said receiver forbade & prevented such sales after he came into possession, & endeavored to recover such property as had been previously sold, & succeeded whenever the same was accessible. He forbade & stopped a sale of iron at Attalla, & it is not true as alleged in affidavits that supplies, material, or other property of the road were, during said receivership, sold, stolen, carried off or otherwise wrongfully disposed of by the receiver or his agents or employees, or others. There was without doubt a great deal of property belonging to the road which, during the said interval between the administration of Clanton & Gindrat, was made way with by strikers, unpaid employees, & others, & when the receiver took possession there was comparatively little property & material on the road; but what there was was properly cared-for, preserved, & guarded & used for the legitimate purposes of the road only. The only property I know of having been sold from the road, during said receivership, was a lot of old iron rails, for the most part crooked from having been burnt,
1098 worn out & useless as rails, which were gathered up along the line of the road between Meredian & York, & sold by Maj. H. F. Wheeler, the then superintendant of the road under the receiver. The proceeds of this old iron amounted to some 4,200.00, & were received by by me as treasurer, & paid out for new ra'ls on the road. And it is not true as alleged in said affidavits that the employees of said road under said receiver were drunken, worthless, & incompetent, & that the trains were run by drunken engineers, foremen, & brakemen, & that the road was run by a drunken mob. I am & have been acquainted with said

employees, & am familiar with the conduct and management of the road. The said employees are, with very exceptions, the same that were employed on the road under the administration of J. C. Stanton, & are as to sobriety, character, & competency, as I am informed, about like the average of railroad employees. And it is not true that 540 tons or any other amount of new iron rails were on the line of said road at the time the said receiver took possession & has since been removed, destroyed, or otherwise disposed of, as is falsely alleged in said affidavits. As before stated, I went over the line of the road in a hand-car, when said receiver first took possession, & know what property was then on or along the line of the road. There was very little of this de-
1099 scription of iron then along the road, and such as there was is still on the line of the road, except that since used for new siding & like purposes, and none of it has been improperly disposed of by the said receiver or his agents, or employees or others.

And it is not true that fish-bar fastenings with nutts & bolts for seven miles, of the value of 2,500, or any other quantity of any other value, were on said road at the time the receiver took possession, & have since been removed, destroyed, or otherwise disposed of, as is falsely alleged in said affidavits. There was no material of the character mentioned along the line of the road at that time, except a lot of the same at Eppes station, which remains there unused because the fastenings, nuts, & bolts do not (as is officially reported to me) fit any of the rails along the road. From the time the receiver took possession, I as treasurer of the road have had constantly to buy spikes & like material for use on the same.

And it is not true, as alleged in the affidavit of James P. Stanton in this cause filed, & purporting to have been made on 18th of May, 1872, that at the time said road was seized by the State of Alabama it was run at the rate of 25 to 30 miles per hour with perfect safety, & that it cannot now be run at over 10 miles per hour. At the time of said
1100 seizure the said road, as a whole, for the reasons before stated, was not practicable for trains in many places, & could not have been run at any speed with safety, and it is now being habitually run at the rate of from 12 to 14 miles per hour with safety. I know of the Eureka coal-mine mentioned in said affidavits. The property, material, and appurtenances at one time used in working the same had been removed & disposed of before the said receiver came into the possession of said road; and he never had or obtained possession of either the coal-mine or of any of its said appurtenances. As before stated, I am, & ever since said receivership have been, the treasurer of said road, & as such have disbursed all its monies. No means of the road have ever been disbursed by me, or my own, or by the authority of others, except for the legitimate uses and purposes of the road. Governor R. B. Lindsay has never had or received a cent of the monies of the road; and Col. Gindrat has received for use from $200.00 to 300.00, only; and *and* he has furnished me, as such treasurer, proper voucher' for all the monies he has paid out. The said road between Meredian and Birmingham is, in my opinion, better managed now than it ever has been before.

I confine this statement to this portion of the road, because I am
1101 not acquainted with the actual workings of the northern division of the road at this present time. The employees of the road are paid off regularly & weekly; and from the current earnings of the road there is a surplus every week, which is applied to the permanent improvements of the road. The business of the road is increasing, and road meets all the demands so far made upon it as a carrier of freight

and passengers, and its trains now make better time and run with more regularity than ever before.

R. C. RANDOLPH.

Sworn to & subscribed before me, the undersigned commissioner of the United States, appointed by the district court of the United State' for the middle district of Alabama, by the said R. C. Randolph, of whose personal identity satisfactory evidence has been made to me. All on this 3rd day of July, A. D. 1872.

HUGH S. D. MALLORY,
U. S. Commissioner for the Middle District of Alabama.

Filed July 6th, 1872.

N. W. TRIMBLE, *Clerk.*

1102 *Affidavit of Horace Harding.*

Circuit court of the United States for the southern district of Alabama.
In equity.

SETH ADAMS, FRANCIS B. LOOMIS, & JNO. C. Stanton, trustees, &c., complainants,
vs.
THE ALABAMA & CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippett, & Daniel N. Stanton, as trustees, &c., and others, defendants.

I, Horace Harding, being first duly sworn, depose & say that I am superintendent of the Alabama & Chattanooga Railroad, and have been in active charge of the same since the 25th of May last; that since that time the road has been properly equipped and provided with men and material sufficient and more than sufficient to do the business offering; that the road & rolling-stock are being kept in repair and improved; that the passenger & freight trains are being run daily with safety & regularity; that they carry the U. S. mail & express matter and accommodates all the business that offers; that all expenses are promptly met weekly, & the surplus earnings, amounting to $300 to $500 per week, are expended in improving the track & machinery.

The business of the road could be very greatly increased, as
1103 well as the ability to improve & finish the road, but for the uncertainty that exists among business men & the public generally as to the permanance of any arrangements that might be entered into. This uncertainty and want of confidence are caused mainly at present by the reports & rumors in relation to the bill filed in this cause, & cripple the usefulness of the road, diminish its earning power, & fetter the hands of the present management by rendering it impracticable to make suitable arrangements with other roads for through freight & travel, and it is the through business of the road, when it can be secured, that will furnish the main portion of its earnings.

HORACE HARDING.

Sworn to & subscribed before me by the said Horace Harding, of whose personal identity satisfactory proof has been made to me; all on this 3rd day of July, A. D. 1872.

HUGH S. D. MALLORY,
U. S. Commissioner for the Middle District of Alabama.

Filed July 6th, 1872.

N. W. TRIMBLE, *Clerk.*

1104 *Affidavit of H. Kirkman.*

Circuit court of the U. S. for the southern district of Alabama. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, & JOHN C. Stanton, trustees, &c., complainants,
vs.
THE ALABAMA & CHATTANOOGA RAILROAD, Louis Rice, A. C. Lippett, & Daniel N. Stanton, as trustees, & others, defendants.

Personally appeared before me, Hugh S. Mallory, a United States commissioner appointed by the district court of the United States for the middle district of Alabama, Hugh Kirkman, who, being by me first duly sworn, says that he is thirty-three years old & resides in the city & county of Tuscaloosa, in the State of Alabama, where he has lived for the last several years; that in the early part of the month of August, 1871, he, said Kirkman, received the appointment, through John H. Gindrat as receiver of the Ala. & Chattanooga Railroad, of depot agent, at the said city of Tuscaloosa, of said railroad, which position he has held contin'ously from that time up to the present, except a period of about two months, when the Mobile & Ohio Railroad Company had charge of and was running
1105 said Ala. & Chattanooga Railroad; that he has been constantly & closely engaged as depot-agent, aforesaid, with the above exception; was well acquainted with said road, road-bed, &c., &c., at the time when the State of Ala. took possession of the same, & says the same in every respect, with exception of putting new brakes on some freight-cars, has been kept in constant repair on this part of the line all the time; that the passenger & freight trains are kept running regularly once a day each way through the entire line; that passenger' & freight, whenever offered, are promptly & vigorously transported on said road, and that the business of the road, at this point, is all the time increasing; that everything connected with road in its management, the engines, cars, & all materials, articles & things used and employed in & about the same by those roving charge thereof are properly managed & taken care of, and that the road-bed, bridges, trestlework, &c., &c., are being properly & constantly repaired, when necessary; that ordinary wear & tear is all the injury which the road or its appurtenances is suffering. Said Hugh Kirkman further states that the employees & laborers of said road have been much tampered with by agents & other persons active in the interest of J. C. Stanton, former superintendent of said road; that this was especially the
1106 case during the year 1871, after the State went into possession; that they have apparently been & are still engaged in a concerted, systematic effort to fetter & cripple the road in its management, & to impair its business & usefulness; they are constantly asserting that said Stanton would soon regain possession of the road & relieve it from all trouble & embarrassment; that said Hugh Kirkman has himself been approached this way since he has been one of its agents; that he remembers that John S. Kennedy, of Tuscaloosa, who is a director of the road, in a company in full sympathy with said Stanton, some three or four months since, advised him (Kirkman) to say nothing against said Stanton or those so assid'ously engaged in moulding public opinion in his behalf, promising him, affiant, a position on the road under said

Stanton & company, when said road should go back into his possession again; that this persistent policy on the part of the agents & friends of said Stanton has, in many instances, wrought dissatisfaction among the employees & laborers of the road, & impaired seriously its business as to passenger' & freight.

HUGH KIRKMAN.

Sworn to & subscribed before me by the said H. Kirkman, of whose identity satisfactory proof has been made to me. All on this 3rd day of July, A. D. 1872.

HUGH S. D. MALLORY,
U. S. Commissioner for the Middle District of Alabama.

Filed July 6th, 1872.

N. W. TRIMBLE, *Clerk.*

1107 *Affidavit of William J. Pierce.*

Circuit court of the U. S. for the southern district of Alabama. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, & JNO. C. Stanton, trustees, &c., complainants,
vs.
THE ALABAMA & CHATTANOOGA RAILROAD CO., Lewis Rice, A. C. Lippett, & Daniel N. Stanton as trustees, &c., & others, defendants.

I, William J. Pierce, of Birmingham, in the State of Alabama, being duly sworn, make oath & say that I am a member of the firm of Allen & Pierce, grocers, doing business at said Birmingham; that the house was the first one established at said place, and is still doing as large business as any other in Birmingham. Said firm ship & receive large amounts of freight over the Alabama & Chattanooga Railroad, and have extensive business dealings with the same. I am bect acquainted with the management, conduct, of the road between Chattanooga, Tenn., and Birmingham, that being the part of the road over which we receive our freights. For the past two months, especially, we have been receiving our freights over said road with as much regularity & despatch as we could desire, and we are so well satisfied with the present
1108 management of said road that we have ordered our correspondents north hereafter to ship all our goods over said road, instead of by Calera, on the Selma, Rome & Dalton, & North & South Railroad, or by any other route. I am enabled to state from my experience with the road, and observation of its management, that it is now giving general satisfaction to merchants, shippers, and others along the line of the road.

W. J. PIERCE.

Sworn to & subscribed before me by the said William J. Pierce, who is personally known to me, on this the 2nd day of July, A. D. 1872.

HUGH S. D. MALLORY,
U. S. Commissioner for the Middle District of Alabama.

Filed July 6th, 1872.

N. W. TRIMBLE, *Clerk.*

Circuit court of the United States for the southern district of Alabama.
In equity.

SETH ADAMS, FRANCIS B. LOOMIS, & JOHN C. Stanton, trustees, &c., complainants,
vs.
THE ALA. & CHATTANOOGA RAILROAD COMPANY, Lewis Rice, A. C. Lippett & Daniel N. Stanton, as trustees, & others, defendants.

1109 Personally appeared before me, Hugh S. D. Mallory, a United States commissioner, appointed by the district court of the United States for the middle district of Alabama, Charles Smallwood, who, being by me first duly sworn, says that he is forty-five years of age, and resides in the city of Tuscaloosa, in the State of Alabama, where he has continuously lived for the last fourteen years; that said city being on the line of the Alabama & Chattanooga Railroad, he knows much of the conduct of J. C. Stanton, the former superintendant of said railroad, & the employees of the company, while the road was under his charge; he knows and well remembers that about the middle of the month of June, 1871, before said road or any of its property went into the possession of the State of Alabama, or any of its agents, he with others was summoned by the sheriff of Tuscaloosa County to stop an engine with a train of cars on said road, which train was expected to pass Tuscaloosa, on its way from Chattanooga to Meridian; that said train passed accordingly, being under the control and management of those representing themselves to be the creditors of said railroad company who had not been paid, and
1110 that they had appropriated the same to their own use. This was after the road had been abandoned by the company, but several weeks before the same went into the possession of the State's receiver, John H. Gindrat; that for about two months before the said Gindrat got possession of the road or its property, everything connected with the road was in the utmost confusion, & much of the property which had been used in connection with it was taken away from it and disposed of. He knows that John P. Stanton & others, in the month of June, he thinks, & long before the State or its agents got possession of the road, sold a great deal of the property which had been used in its construction, such as carts, wheelbarrows, axels & shovels, picks, &c., as well as camp-equipage, such as tents, cooking-utensils, &c.; that many other persons who had been employed of the railroad also did the same thing. That in this way an immense amount of property which had been used in & about the construction of the road was disposed of; that the auctioneer in the city of Tuscaloosa sold much of it at public sale, at great sacrifice; that much other property having been
1111 seized by the executive officers of courts before the State receiver was appointed, sold the same at public auction, most of it before but some of it after said receiver was appointed, the officers aforesaid holding on to the said property & selling the same against the protests of the agents of the State, who forbade the sale publicly, and claimed it in the name of the State of Alabama. Affiant further states, that from the time the State of Alabama, through John H. Gindrat, as receiver of the Alabama & Chattanooga Railroad & its appurtenances, in the early part of August, 1871, up to the present time, J. C. Stanton & those persons in his interest have persistently exerted themselves to cripple and embarrass the management & running of the road by threats,

promises of reward, &c., to its agents & employees; that very much & serious practical injury has been done in this way by creating dissatisfaction among the employees & agents & poisoning the public mind against the expectations of good results from the possession, use, occupation, & management of the State or the agents in charge of said road. That notwithstanding this the road seems be efficiently managed, the rolling-stock & all other property duly cared for, and the
1112 interests of the travelling & trading public promptly & properly served, regular trains, passenger & freight, both ways, each day through the entire line, furnishing regular & constant transportation for passengers & freight when offered, with a constant supply of labor along the line, industriously engaged in making necessary & timely repair.

C. SMALLWOOD.

Sworn to & subscribed before me by the said C. Smallwood, who is personally known to me, on this 3rd day of July, A. D. 1872.

HUGH S. D. MALLORY,
U. S. Commissioner for the Middle District of Alabama.

Filed July 6th, 1872.

N. W. TRIMBLE, *Clerk.*

Affidavit of Thomas Edwards.

Circuit court of the U. S. for the southern district of Alabama. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees, &c., complainants,
vs.
THE ALA. & CHATTANOOGA RAILROAD COMpany, Lewis Rice, A. C. Lippett, & Daniel N. Stanton, as trustees, &c., & others, defendants.

1113 I, Thomas Edwards, being duly sworn, depose and say that I am 59 years of age, & am a practicing physician; I reside & for the past two years have resided at Attalla, in the county of Etowah & State of Alabama, & have resided in this county & in this vicinity between thirty & forty years. I have read the affidavit in this cause filed purporting to have been made by P. J. Smith & William George, before Daniel J. Duffy, U. S. commissioner, on the 1st day of June, 1872, and I know of the property, viz: lard-oil, coal-oil, vice, nails, & tools, alleged in said affidavit to have been stored in the round-house & station-house at Attalla, & to have been sold by the agents & employees of the receivers for the State of Alabama to private parties for their personal use. The said property so stored was inconsiderable in quantity, and to the best of my judgment of very much less value than stated in said affidavit, & it was never in the possession or under the control of the said receiver or his agents or employees, but was in the possession of one Duncan, who was an express & railroad agent in charge at this station in the interregnum between the time when J. C. Stanton
1114 quit running the road & the time when the State receiver took possession of the same. I do not know of my own knowledge how or in what way the said Duncan disposed of said property. I only know that he, at the time, was charged with selling or otherwise im-

properly disposing of it, & I know that this was before the said State receiver took possession of the road, because when he did take possession he immediately discharged said Duncan and drove him off & appointed Mr. Fugua agent at this point, & Mr. Fugua at once entered upon the discharge of his duties as such. I am enabled to remember with distinctness the above facts from the circumstance that when Col. Gindrat, the State receiver, first came to Attalla, as he was taking possession of the road, the said Duncan refused to give up or vacate his office, & was thereupon literally kicked out of the office by some of Col. Gindrat's men. I was present and witnessed the occurrence. I saw Duncan knocked down & kicked out, & saw him get up & leave. I have been acquainted with the successive agents at this place of the said receiver ever since he took possession of the road, & since
1115 then no property of the kind mentioned in said affidavit, or of any other kind, has ever been sold or otherwise improperly disposed of here by the said receiver or his agent or employees that I know of or ever heard of; & brought as I am by my profession into daily contact with the railroad employees & citizens of and at Attalla, I am satisfied that if such had been done or charged I should have heard of it. I feel such an interest in the successful administration of the Ala. & Chattanooga Railroad as a citizen living along its line would naturally feel, & I have observed its management closely. The upper end of the road, that is to say, between Birmingham & Chattanooga, the only part with the actual workings of which I am acquainted, appears now to be managed efficiently & successfully. Freight & passenger trains run daily & make regular connections. The business of the road is few for the season of the year, & appears to be increasing. The capacity of the road is proving equal to all the demands of freight & passenger traffic. The road appears not to be deteriorating or losing, but to be improving & making money. Mingling as I do constantly with all kinds of people, I have had opportunities of knowing & do know that the present
1116 management of the road is giving in this section general satisfaction.

THOS. EDWARDS.

Sworn to and subscribed before me by the said Thomas Edwards, of whose personal identity satisfactory proof has been made to me, all on this the 2nd day of July, A. D. 1872.

HUGH S. D. MALLORY,
U. S. Commissioner for the Middle District of Alabama.

Filed July 6th, 1872.

N. W. TRIMBLE, *Clerk.*

Affidavit of E. Y. Gregory.

Circuit court of the U. S. for the southern district of Alabama. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, & JNO. C. Stanton, trustees, &c., complainants,
vs.
THE ALA. & CHATTANOOGA RAILROAD COMpany, Lewis Rice, A. C. Lippett, & Daniel N. Stanton, as trustees, &c., and others, defendants.

I, E. Y. Gregory, a resident of Birmingham, in the State of
1117 Alabama, being duly sworn, depose and say that I am a member of the firm of Gregory & Hughes, wholesale & retail grocers, at

Birmingham; that we have been carrying on said business here & in the adjoining town of Elyton for the past eighteen months, & are now doing as large a business as any firm in the city of Birmingham. That we receive large amounts of freights over the Alabama & Chattanooga Railroad, shipped from Chattanooga to this place; our freights are not delayed, but are forwarded over said road promptly, & are received by us in good time & in good condition. Freights are now received by us much more promptly than they were when J. C. Stanton had charge of the said road, and are transported at as low rates, according to my information, as any road in the South. The road is now being as well managed as any one could manage it, considering that it has changed hands & has been & is the subject of litigation. What I say refers to that portion of the road between Birmingham & Chattanooga, that being the portion over which we do business & with the management of which I am best acquainted. This portion discharges all the functions
1118 of a railroad to the public well and efficiently, & under the present management is giving general satisfaction to merchants, shippers, & the public generally.

E. Y. GREGORY.

Sworn to and subscribed before me by the said E. Y. Gregory, who is personally known to me, on this the 2nd day of July, A. D. 1872.

HUGH S. MALLORY,
U. S. Commissioner for the Middle District of Alabama.

Filed July 6th, 1872.

N. W. TRIMBLE, *Clerk.*

Affidavit of Wm. F. Karsner.

Circuit court of the United States for the southern district of Alabama.
In equity.

SETH ADAMS, FRANCIS B. LOOMIS, & JOHN C. Stanton, trustees, &c., complainants,
vs.
THE ALA. & CHATTANOOGA RAILROAD COMpany, Lewis Rice, A. C. Lippett, & Daniel N. Stanton, as trustees, & others, defendants.

Personally appeared before me, Hugh S. D. Mallory, an United
1119 States commissioner' ,appointed by the district court of the United States for the middle district of Alabama, William F. Karsner, who, being by me first duly sworn, says that he is thirty-seven years old, & reside' in the city of Tuscaloosa, State of Alabama; that he has lived in said county for the last seven years, & in said city four years, where he has been engaged as a commissioned auctioneer; that during the year 1871, in the summer of said year, before the Alabama & Chattanooga Railroad was taken possession of by the State, in the person of John H. Gindrat, as receiver of said road, as auctioneer aforesaid he sold at public outcry, at the instance of J. P. Stanton, many various articles which had been used in & about the construction of said road, such as wheelbarrows, spades, picks, shovels, dung-carts, blacksmith-shops & tools, camp-equipage, cooking-utensils, &c.; that he sold many other articles at various times at the instance of others, who represented themselves as creditors of said railroad company, which articles had been used in the construction of said road. These articles were all seized &

taken possession of by the parties before the road went into the
1120 possession of the State or any of its agents. He remembers at one time to have thus sold a steam-shovel, with appurtenances, &c. Some few of the sales were made at the instance of officers of court, in the execution of appropriate writs which had been issued from them. The property sold by me, at the instance of different persons, was immense, & at their proper value was worth a large sum of money.

After the railroad aforesaid went into the possession of the State, through its agents, which was about the 1st of August, 1871, the Stantons and their subordinate agents, or friends and agents of the original company, began, & have ever since kept up, the ceaseless work of embarrassing the road in every way possible, constantly engaged in disparaging the State & its agents employed in the management and control of the road, arguing a bright, speedy future for the road under a supposed early re-instatement of J. C. Stanton as the acting managing chief of the road, with abundant capital & an ample supply of proper, efficient, well-paid labor, and the most skillful agency in every part of its management; holding out promises of reward by way of lucrative
1121 positions to his friends, & uttering threats of ostracism, &c., &c., to those who favored the cause of the State. Said Karsner further states that the road is now doing much good to the people along the line; that its passenger & freight trains each pass up and down the road regularly every day; that ample & prompt accommodations are furnished on the road through competent & attentive agents for all the passenger and freight presented for transportation; that the rolling-stock & other property used in connection with the road seems to be properly cared for & repaired; that the road-bed, trestle-work, bridges, &c., receive the necessary repairs for the successful & safe running of the trains; that the road and all equipments are apparently preserved and kept in as good repair as is at all practicable, & they are receiving no injury except such as may be inevitably incident to loss of time & ordinary wear and tear.

W. F. KARSNER.

Sworn to and subscribed before me by the said William F. Karsner, of whose personal identity satisfactory proof has been made to me, all on this 3rd day of July A. D. 1872.

HUGH S. D. MALLORY,
U. S. Commissioner for the Middle District of Ala.

1122 Filed July 6th, 1872.

N. W. TRIMBLE, *Clerk.*

Affidavit of James H. Sharp.

In the United States circuit court for the southern district of Alabama.
On the equity side of said court.

SETH ADAMS, FRANCIS B. LOOMIS, & J. C. Stanton, trustees, &c.,
vs.
THE ALA. & CHATTANOOGA RAILROAD COMpany, Lewis Rice, A. C. Lippett, D. N. Stanton, & others.
} On bill for injunction & receiver.

Before me, J. M. Johnson, a United States commissioner for the eastern district of Tennessee, personally appeared *before me* James H.

Sharp, who, being first duly sworn, deposeth & saith as follows: I reside at Springville, St. Clair County, Alabama. I am thirty-seven years of age. I have been engaged on railroads for twenty years, in the various capacities of conductor, wrecking-master, & road-master, and bridge-repairer. I was employed by J. B. Weaver, assistant su-
1123 perintendant of the Ala. & Chatta. Railroad, as conductor of construction-train, in August, 1870. I was employed as conductor on the northern division of road, which embraced the road from Chattanooga as far south as it was finished. I remained in this capacity until the 4th of March, 1871, at which time the road had been finished to a point near Tuscaloosa, a distance of 198 miles, or thereabouts. My duties were to superintend & boss the hands engaged in repairing the road & forwarding material for constructing the road, as well as to run the construction-trains as conductor. On the 4th of March, 1871, I was placed in charge of all construction-trains on the northern division of the road, to push forward material for the completion of the road. I continued to act in the capacity until the road was completed, on the 8th or 9th of June, 1871, when there was a general strike by the unpaid employees, & after that there was never any regularly-organized work done on the road under J. C. Stanton, general superintendent: I mean no regularly-organized forces or hands engaged in running trains, working the track, or in the shops. The condition of the northern division at that time was good. There was a sufficient amount of tools,
1124 dump & lever cars, for repairs on the line of the road. The condition of the rolling-stock at that time was good. Some of the tools & one or two dump-cars & lever-cars were levied on & sold by creditors of the road, at Steele's Station, Alabama. This was, I think, about the time the State of Alabama seized the road, in July, 1871. A few of the tools were also carried off by the old employees of the road. The road from Chattanooga to Attalla, a distance of 87 miles, was well constructed in all respects. Below that point it was not so well built. Some of the cuts needed sloping & ditching. The trestle at Red Gap (about 2,000 feet) was temporarily built. It was designed to fill in with dirt afterwards. The same is true of the shorter trestles. Between Tuscaloosa & Birmingham there was about thirteen miles of what is called temporary track. For this distance it leaves the surveyed line. This was done in order to expedite the completion of the road. It was intended afterwards to complete the permanent track on the line of the survey.

On or about the 10 of October, 1871, I was employed by H. F. Wheeler, superintendent of the road, as conductor from Meridian
1125 to Attalla. He was only running trains to Attalla. Wheeler was, as I understand, acting under Col. Gindrat, receiver. When Wheeler took charge, the rolling-stock was in fair condition; while he was acting as superintendant a good deal of damage & injury was done to the rolling-stock; some cars were thrown down the banks & wrecked. Engine No. 1 fell through a trestle & was injured, & engine No. 2 ran off the track & turned over & was damaged. In December, 1871, or January, 1872, I forget the exact date, a collision occurred about four miles south of York Station, in Sumpter County, Alabama, between a freight-train of the Alabama & Chattanooga Railroad & a passenger-train of the Alabama Central Road, whereby three persons were killed & others mutilated. The engine No. 10, of the freight train, was totally wrecked & damaged from six to eight thousand dollars. This collision was caused by an oversight of the conductor in charge of the freight-train, an inexperienced man, who had lately been put on the road by

either superintendant Wheeler or Wagner, the master of transportation. After the 25th of December, 1871, there was no regular running of trains below Attal'a. Superintendant Wheeler had the trains turned
1126 back at Attalla, (87 miles south of Chattanooga,) and would not allow them to run through for nearly three months, from December 25th to some time in March, 1872; everything was disorganized between Attalla & Birmingham until about March 6th, when Wheeler ceased entirely to run any trains above Birmingham. About the 8th of March Genl. Wofford ran a train through to Birmingham, & since that time Genl. Wofford has continued regularly to run trains, freight & passenger, from Chattanooga to Birmingham. The road has always been in good condition since built from Chattanooga to Attalla; below Attalla the road was in very bad condition when Genl. Wofford took possession of it in March, 1872. He, however, at once set about improving its condition, & it is now in as good order as it was at first, & better; he has repaired the trestles & put the road in good running order. The road under Genl. Wofford has been run regularly, systematically, & to the satisfaction of the public, from Chattanooga to Birmingham. In a few days after Genl. Wofford commenced running to Birmingham the trains ceased to run with any regularity below that point, & Genl. Wofford ran his trains through to Tuscaloosa, 198 miles below
1127 Chattanooga. He continued to run to Tuscaloosa for about a month, when, as I understood, the State of Alabama leased the southern end of the road, & this road arranged to run the trains as far north as Birmingham. Since then Genl. Wofford has been running to Birmingham & connecting there with the trains run by the Mobile & Ohio Road. During the month Genl. Wofford run to Tuscaloosa he put the track in much better condition than it was when he commenced running over it. The train under my charge picked up all disabled cars & material scattered along the road & brought them to Chattanooga, where they were repaired in the shops of the company. The rolling-stock & material is now regularly repaired when injured or worn, & is now in better condition than when Genl. Wofford received it. The character of the employees under Genl. Wofford is good; they are sober, trustworthy, & well-disciplined. The general management of the road is good & gives satisfaction to the business public. No accidents of moment—none in fact except of most trivial kind—have happened to the road under the management of Genl. Wofford; and I unhesitatingly give it as my opinion that no one could
1128 have taken charge of the northern end of road, under the serious derangements & difficulties encountered by Genl. Wofford, & operated it with more success than he has done. He has repaired the broken & damaged rolling-stock & material, improved the road-bed & track, placed competent & energetic men in charge of the various departments, & has so managed as to make the road more than pay the current cost of running, under circumstances of very great disadvantage.

J. H. SHARP.

Sworn to & subscribed before me this 28th day of June, 1872.

J. M. JOHNSON,
U. S. Commissioner, Dist. East Tennessee

Filed July 6th, 1872.

N. W. TRIMBLE, *Clerk.*

1129 Personally appeared before me, Daniel J. Duffy, a commissioner appointed by the circuit court of the United States of

America for the eastern district of Tennessee, G. M. King, of Chattanooga, Tennessee; after having been duly sworn, says on oath that he is thirty-seven years old, and by profession a railroad-man, and been engaged in railroading ever since 1854; has been connected with the Alabama and Chattanooga Railroad Company ever since the beginning of the construction, and to the present time, excepting an interval of about four months he had charge of the track from Chattanooga, Tenn., to Attalla, Ala., while in possession of said company, and is at present in charge of said road as road-master from Chattanooga to Birmingham, Ala. He further states that he was connected with the East Tennessee and Virginia for fifteen years; was also connected with the Nashville and Decator Railroad, and that he is thoroughly acquainted with the business of railroads. He further states that the northern division, which he had charge of while in the hands and management of the said Alabama & Chattanooga Railroad Co., said road was in as good and safe condition as any road he ever saw, with men and tools sufficient
1130 to keep it in good and safe order—tools, tents, hand-cars, lever-cars, and, in short, tools and other supplies sufficient to supply and work two thousand men. The road was completed on the 15 day of May, 1871, and trains ran from Chattanooga, Tenn., to Meridian, Miss., on the day following, May 16, 1871, and run the trip (295 miles) in twelve hours. There were two passenger-trains each way daily, and freight-trains sufficient to do the entire business of the road. The said A. & C. Company had eight first-class, in every respect, passenger-coaches, seven or eight second-class, and baggage and mail cars sufficient to do the business; also, two Pulman sleeping-cars, "Winitika" & "Fairview;" also, over two hundred new box and flat cars, and some old cars. The said A. & C. Company had shops at Chattanooga, Tenn., for the purpose of building and rebuilding cars. I never saw better machinery in any shops. Said A. & C. Company was building one box-car each day, or three flat-cars every two day' at the time of the seizure of the said A. & C. road by the bankrupt-court and the State of Alabama, and at same time lumber, car-wheels, and all kinds of material—finest of oak, ash, walnut, and pine lumber, car-axles, and castings all prepared, and trimmings for passenger-coaches, and had built as fine a car, called "directors'," (which is now virtually destroyed,)
1131 as Pulman or any other car-factory could have built. Said car could not have been purchased, finished as it was, for a less sum than sixteen to eighteen thousand dollars. Said road had material sufficient on hand to build three thousand cars, almost ready to be put together, and to-day there is not material sufficient to build twenty-five cars. Material has been sold, stolen, rotted, and carried away, and apparantly no one is looking after or taking charge of said property. A passenger-depot was framed, with bolts of iron and all necessary for its completion, and was being raised. Size of said depot was 600 by 125, with room for seven tracks, reception-room, offices, and everything that would be needed for five roads, which has mostly been carried away, sold, and stolen, and which cannot be replaced to-day for less sum than thirty-five thousand dollars. He further states that there is now on northern division engines Nos. 19, 18, 17, 16, 12, 15, 3, & 4. He understands that there are four engines on the southern division. He further states that at the time of said seizure said A. & C. Company had eighteen first-class locomotives, new, and one second-handed locomotive. At present there are but twelve locomotives in all; the present incumbents have hypothicated one; the balance are stove up &
1132 destroyed. There was twenty-two lever-cars on the northern

division at the time of said seizure, and a like proportion, and even more, on southern division, which are now nearly all destroyed. At present there are six only, and some are scarcely fit for use, and for the distance of one hundred and forty-two miles there are not tools at this time sufficient to supply forty men, and at the time of said seizure there was tools sufficient to work five hundred men on that portion of said road. A coal-mine was opened by said A. & C. road about thirty-two miles from Chattanooga & at a cost of one hundred to one hundred and twenty-five thousand dollars, with houses for men, iron track three-fourths of a mile long, scales for weighing coal, cars, tools of all kinds for mining, six mules. All this material was at and on the grounds of said mine at the time of said seizure. Said mine' was used to furnish coal for engines & shops. Since said seizure by the bankrupt-court and State of Alabama said iron, scales, track, tools, mules, one mile of three-inch wire-cable, costing nearly two thousand dollars, and other material has been carried away, and the said mine' cannot be placed in as good condition as they were at the time of said seizure for a less sum than seventy-five thousand dollars. He further states that at the time of said seizure there was a sufficient quantity of wood cut and all ready for the locomotives to last said company for twelve months. He says nearly all of said wood has been
1133 used since said seizure. There was sufficient supplies at Chattanooga, such as oil, lanterns, waste for packing-boxes, paints, oils of all description', glass for cars, &c., &c., cars, candles, and every sort of supplies of first class, which is now gone and cannot be replaced for less than fifty thousand dollars, & was sufficient quantity to last the entire line for twelve months. The aforesaid four locomotives at southern division of said road is not worth more than fifty cents on the dollar of their original worth, and at the time of said seizure; the locomotives on the northern division, eight in all, are worth at present about eight thousand dollars each, and at the time of said seizure said locomotives was worth twelve thousand dollars. Cars, both passenger and freight, and flats have been damaged since the said seizure in bankruptcy and by the State of Alabama in the amount of fifty per cent. on their original cost and their real worth at the time of said seizure. Some have been totally destroyed; say one-third of the locomotives and cars belonging to said A. & C. Company at the time of said seizure have been totally destroyed. The track of said road from Chattanooga to Attalla, owing to the permanent construction and being property ditched, has been pretty well kept up. A portion of the time there has been no hands employed on the track. At
1134 other times one man was employed for the purpose of walking over sections and removing obstacles which might be on the track within their respective section. He further states that since this suit has been brought—say within the past month—two men have been employed to take care of some sections, and to other sections four men. There should be, in the present condition of said road, twelve men at least employed on each section from Attalla to Maridian. The track of said road is in a fearful condition; iron bent, ties buried in the mud, iron gret broke, (as railroad men term it,) which destroys the iron and renders it worthless until it is rerolled. Weeds are grown over said track, causing ties to rott more rapidly than if exposed to air and open sun. Said road was new and built quick; therefore needed constant care. Iron was of first quality, rolled at the Allentown rolling-mill, was inspected when purchased by first-class iron-men, ties were of the best post and white oak eight feet long and faced not less

than eight inches, and as fine ties as he ever saw. Said ties was laid at an average of twenty-six to twenty-seven hundred ties to the mile, four spikes driven into every tie. The iron was laid with fish-plates and bolts over the entire line of new rail. Great care was taken in laying the track; and had the track been properly cared for after the
1135 said seizure, it would be now the best track in the South. It is hard to estimate the damage of running trains over the track in its present condition. He says the said road is now being damaged to an extent of three thousand dollars each and every day. He means that the rails are being bent and worn, engines & cars of all kinds being broken, worn, and otherwise damaged, ties sinking in the mud constantly bends the iron as every wheel strikes it. Said road is in this condition for a distance of nearly two hundred miles. A large portion of the furniture and scales and telegraph instruments have been taken away since said seizure and sold or stolen. At the time of said seizure, on or about the 8th of June, 1871, the employees of said road were working peaceably, and no dissatisfaction existed to his knowledge. There was, however, a few men who had been discharged, as he understands, for drunkenness and other misconduct; among whom was J. F. Wheeler, Wagener, and others. When said A. & C. Road was seized, said Wagner, Wheeler, and others, with a crowd of men who were never in the employ of said company, came up the line of said road, Meridian to Chattanooga—about two car-loads—most of them armed with pistols, in company with the receivers in bankruptcy *and* State of Ala-
1136 bama, making threats against the officers of said company or any one who dared to show himself or themselves favorable to the said officers of said company; intimidating and forcing every one to their measures as much as possible. He has never seen on any railroad a better organized force, each man understanding his business, and the majority of said men were of large experience as railroad-men. Said company paid their bills as promptly as any railroad in the United States up to first of January, 1871, and had the entire confidence of the entire force of employees. There never was a strike on the entire line of said road, and employees had perfect confidence in said company, and believed that if said company should be let alone they would receive their entire pay. The said receivers and attorneys talk about the poor laborers going without their pay. There is to-day over seven thousand different names on the books of said company who worked on said road, and ninety-nine out of every one hundred of these men would go back to-day on said road, or any other road under J. C. Stanton and his agents and officers, & the majority would surrender every cent that said company owes them if such an event should take place. He
1137 would not have mentioned this had he not heard so much talk on the other side. He was born in Virginia, and has lived in Chattanooga ever since 1859, and thinks he knows the people who worked for said road. Since the seizure of said road, employees working for the State of Alabama have not been paid for four or five months. The claims of said employees were settled by vouchers, which they sold at from forty to fifty cents on the dollar. He further states that he sold his scrip (so called) at fifty cents on the dollar. He further states that there is not a single officer (excepting three or four who were in the employ of said company at the time of said seizure) who are experienced railroad-men or know anything about railroading. The southern division is now run by a lot of men who were discharged for incompetency, and who would be classed as set of drunken loafers in any country.

Decent men and women are afraid of riding on their trains for fear of being insulted.

G. M. KING.

Sworn to & subscribed before me this June 28th, 1872.

DAN. J. DUFFY,
U. S. Commissioner.

1138 Personally appeared before me, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, James Everett Eaves, of Chattanooga, Tenn., and of lawful age, who, after having been duly sworn, says upon oath that he was in the employ of the Alabama & Chattanooga Railroad Company, from August 6th, 1869, and continued in the service of said road until May 1st, 1871. Was well acquainted with said road while under construction and when completed. Said road was in good condition. Trains ran regular and in perfect safety. Engines, cars, and all other rolling-stock as well as all other supplies were of best quality; has been over northern division of said road several times since June 8th, 1871, which was on or about the time of the seizure thereof by the bankrupt court as well as the State of Alabama. He further states that said road has greatly deteriorated while in the hands and management of the officers in bankruptcy & State of Alabama; that the officers who have been and now are in charge of said road are men of no railroad experience, therefore incompetent.

JAMES EVERETT EAVES.

1139 He further states that there has been no section-men on the northern division for from five to six months at a time, and trains were running over the said road every day. The linings of new passenger-coaches have been cut, apparantly from knives; seats and cushions have been cut, windows and blinds have been broken, cars dirty and nasty, locomotives (new) out of repair, and some of them almost worthless. There was a large supply of wood on line of said road at time of said seizure sufficient to last said company for ten or twelve months, which has been used. A coal-mine which was opened by the company for the use of engines, shops, &c., at a cost of one hundred thousand to one hundred and twenty-five thousand dollars, with a train-road built some three-fourths of a mile, built with iron rails, with cars, scales, buildings, and tools of all kinds for mining; the iron cars, wire cable, (three-inch,) iron tools, &c., have been taken away since the seizure of said road by the said bankrupt court and said State of Alabama, and must damage the *company and* said company to the amount of seventy-five thousand dollars. He was present at Burnes House when General Clanton, the attorney for said State of Alabama, made a speech to the laborers and creditors of said company; he (Clanton)
1140 tried to incite said laborers & creditors by saying that the officers of said company had swindled them, and used all sort' of language to incite that class of people; he made statements in his said speech which I know was not true. Gove'nor R. B. Lindsay, of Alabama, was present at the time. He further states that as he was timekeeper on northern division of said road he knows the general feeling of employees, and up to the time these inciting speeches were being made the men or employees were confident that they would receive their pay. He further states that he has heard more complaints from employees on said road in not getting their pay than I ever did before. Since in the States' employ, car-wheels, car-axles, lanterns, oil, lumber of all kinds,

bell-ropes, waste for packing, nails, tools, and all sorts of material for running a railroad, have been sold, stolen, or carried away from shops, store-house, and lumber-yard in Chattanooga, Tenn., since said seizure of said road; he cannot state the amount without taking an inventory, but the amount is very large, as said company had a large and abundant supply on hand at time of said seizure. The present encumbents, W. W. White, acting superintendent of said road, took engineer's field-books, paper, & instruments, surveying a road belonging to said com-
1141 pany or rout', from Chattanooga, Tenn., to Rome, Georgia. There seems to be no restraint from keeping the company's property in safety, every person seemingly helping themselves; constables & sheriffs selling property for any and every one who can trump up an account against said company.

JAMES EVERETT EAVES.

Sworn to & subscribed before me this June 28th, 1872.

DAN. J. DUFFY,
U. S. Commissioner.

Personally appeared before me, D. J. Duffy, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tenn., C. C. R. Taylor, of Trenton, Georgia, after having been duly sworn, says on oath that he is thirty-seven years old, and by occupation a merchant, and has been a resident of the State of Georgia about twenty-five years; that he is a large creditor of the Alabama and Chattanooga Railroad Company, and to the amount of about seventy-seven thousand dollars, ($77,000;) that he has felt a great and decided interest in the final settlement of the financial difficulties of said road, and called on Mr. W. A. C. Jones, the petitioner, creditor in bankruptcy, who he saw in Montgomery, Ala., during the latter part of February,
1142 1872. He had a long conversation with him (Jones) at this time, and endeavored to convince him that it was detrimental to him, as well as all other creditors, to farther insist in putting the said road in bankruptcy, to which said Jones said, "I am certain of my money any way, provided I push the suit." He afterwards saw and conversed with said Jones on the day and the day following the sale of said road in bankruptcy. He said to Jones in said conversation that the said road has not brought sufficient money to pay the expenses of the court and attorneys managing the case in bankruptcy, as he had been informed by J. H. Gindrat, assignee; that it would take four hundred thousand dollars to pay said expenses, therefore he (Jones) could not get any money, as there was not enough bid, to pay him his claim. He further says that Jones answered that it made no difference what said road brought he would get his money.

C. C. R. TAYLOR.

Sworn to and subscribed before me this 25th day of June, 1872.

DANL. J. DUFFY,
U. S. Commissioner, &c.

1143 Personally appeared before me, Daniel J. Duffy, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tenn., George W. Sewell, of Chattanooga, Tennessee, who, after being duly sworn, says upon oath that he is thirty years old, and was connected with the A. & C. R. R. Co. from 27th September, 1869, and up to the time said road was declared a bankrupt, June 8th, 1871. He says said road up to the time of said seizure was

in excellent condition; trains were running regular; engines, cars, and other rolling-stock was mostly new and of first class. He is not acquainted with the lower division of said road. He says locomotives, passenger-cars, and other rolling-stock is greatly damaged while in and since the authorities in bankruptcy and State of Alabama have had charge of said road. He further states that the officers in charge of northern division are men of no experience as railroad men.

GEORGE W. SEWELL.

Sworn to and subscribed before me this June 28th, 1872.

DANIEL J. DUFFY,
U. S. Commissioner.

1144 Personally appeared before me, Daniel J. Duffy, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, J. S. Burns, of Chattanooga, Tenn., who, after having been duly sworn, says on oath that he is thirty years old, and has been railroading about four years; was connected with the Alabama and Chattanooga Railroad Company from April, 1870, to the time of the seizure of said road by the bankrupt court and State of Alabama, and performed the duties of conductor on passenger-train for and during the aforesaid time, excepting about three months after the said road was completed he had charge of and ran a through express train from Chattanooga, Tenn., to Meridian, Miss., so long as the schedule continued, and up to the time the road was declared and taken possession of and seized in bankruptcy, on or about the 8th of June, 1871. He further states that the track was kept in good condition, employees attended to their respective duties, and, so far as he was able to judge, cheerfully, and with confidence in the managers of said railroad company. The track was in excellent condition from Chattanooga to
1145 Tuscaloosa, and, with the exception of a few rods near Eutaw and Haysville stations, where the road-bed was in bad condition on account of the moisture of the ground, and which was constantly receiving attention necessarily due in such places, and becoming good. The track from Tuscaloosa to Meridian was in as good condition as most roads which I have travelled over in the Southern States. He made time from Chattanooga to Tuscaloosa, one hundred ninety-eight and one half miles, with and in charge of express-train, in eight hours, including stops, averaging 24¾ miles per hour, and from Tuscaloosa to Meridian, averaging 16⅓ miles per hour, including stops. He further states that quicker or faster time might have been made with safety between Tuscaloosa and Meridian had it been necessary, the necessary connection being made with the Mobile and other trains at the aforesaid time and speed. He further states that portion of said road from Chattanooga to Tuscaloosa was in excellent condition, and that improvements were being made wherever needed on the entire line of said road. Deponent further states that after the bankrupt court surrendered possession of said road and its equipments to the said company, in obedience to an order from the U. S. circuit court, the running of trains by said company
1146 was resumed; he saw the first express passenger-train from Chattanooga to Meridian, D. A. Walker, general road-master, having started several hours in advance with a construction-train, (commonly so called,) with men and implements to make the necessary repairs on line of road. After arriving at Meridian his train was taken by a lot of men who were not employees of said company to a track in the yard at that place and near said company's machine-shop as usual,

and by them disabled by the removal of a portion of its machinery; this act was committed immediately after the train was put upon the track aforesaid, in broad daylight and without disguise. This act was committed by men in the employ and management of H. F. Wheeler, or the receiver in bankruptcy, or their agents. His engineer was notified by the aforesaid gang of men that no train would be permitted to leave Meridian after being run to that place by said company. He applied to the mayor of Meridian, Miss., for protection of trains which were to arrive in the future and to render whatever other assistance he might need in the discharge of his duty as conductor and agent for said company. T. J. Peepels, another conductor and agent of said
1147 company, arrived in Meridian, Miss., in charge of and with his train on the day following his arrival as before stated; a policeman was stationed at the engine of his (Peeples') train for the purpose of guarding it; but in spite of his opposition the engine was disabled by the same party above referred to, or parties of the same class and character. Said Peeples and himself remained in Meridian until the evening of the 6th of July, 1871, (after having been there several days,) endeavoring by all lawful means to get their trains in order to return and make their regular run to Chattanooga, Tenn., which is the northern terminus of said road, but without success. The men as above referred to*o*, and employed by the receiver in bankruptcy, made demonstrations by way of assemblages, consultations, and public and violent threats against the managers and agents of said road, declaring their determination to prevent the operation of said road and company by whatever means necessary. Deponent further states that during and at the time the aforesaid men were making their threats, &c., & at intervals, H. F. Wheeler and one Wagner, former employee of said company under said Wheeler, mingled with them occasionally, calling them
1148 aside encouraging them in their acts, and as compensation therefor promising them support. He further states that, on the 6th of July, a train arrived at Meridian from Chattanooga, and was kept guarded by about one hundred men through the day, and near nightfall set out on its return for and to Chattanooga. Said Peeples & deponent returned to Chattanooga on this train, leaving their own trains in possession of the aforesaid gang of men or mob. At York station, on same evening of said day, repeated attempts were made by former employees under said Wheeler to capture the engine of a train which was to return to Chattanooga under convoy of the train, protected by about one hundred men, as aforesaid. On their arrival at Chattanooga next day, the managers of said road decided to run trains for the time to Tuscaloosa only, as they thought it imprudent an' inexpedient to further endanger life and property to the hands of the aforesaid men. He further states that after trains began to run to Tuscaloosa a gang of the aforesaid men seized an engine at Tuscaloosa and run down the said road towards Meridian; he says danger and threats were so great that he kept himself and train-men in readiness for an attack while
1149 lying at as well as while approaching Tuscaloosa. About this time much excitement and annoyance to the managers and employees of said road was caused in Chattanooga by the public harangue and private denunciations and exhortations of J. H. Clanton, and known as General Clanton, of Alabama, who was understood to be acting for and in behalf of R. B. Lindsay, gov. of Alabama. In a public speech which said Clanton delivered from the balcony of the Burns House in Chattanooga was an invective against the said company and the managers thereof, inciting the employees, other creditors of said company,

to violent and hostile acts. Governor Lindsay was present at the time Said Clanton, in his speech at said Burns House in Chattanooga, said that said company had come from the North to our legislature composed of negroes and men foreign to our State, (Alabama,) who had come down like vultures to pray upon our fair land, and through bribery and corruption had secured the bonds of the State of Alabama to build their road, but had stolen the money to pay the men who built said road and left them to starve and die; the State of Alabama wants to take said road out of said company' hands, and Alabama needs
1150 the assistance of the men of Chattanooga; the State would pay them for their work, and would it not be better to have the word of the proud State of Alabama, who had never gone back upon an obligation, than of said thieving railroad company? Deponent further states that said Wheeler and Wagner and many of the employees associated with them had been discharged from the employ of the said company some time previous to the decree in bankruptcy on the 8th of June, 1871, on charges of theft, drunkenness, and other misconduct. That the use of intoxicating liquors by employees of said company was strictly and positively forbidden.

J. S. BURNS.

Sworn to and subscribed before me this 27 June, 1872.

DANIEL J. DUFFY,
U. S. Commissioner.

Personally appeared before me, Daniel J. Duffy, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tenn., A. L. Howard, of Trenton, Georgia, who, after having been duly sworn, says on oath that he is thirty years old, by occupation a merchant, and has been acquainted with the Ala-
1151 bama & Chattanooga Railroad Company ever since the beginning of their work, and up to the present time. He is at present running as conductor between Chattanooga and Birmingham, and knows the condition of said road between the aforesaid points named; was also conversant and acquainted with the said road from Chattanooga, Tenn., to Meridian, Miss., after its completion and while in the hands and charge of said company, and considered said road in first-class condition for a new road, excepting a few trestles and temporary track. Locomotives, coaches, and cars were mostly new and of first-class. Said company had hand-cars, tools, and men sufficient to keep up track; shops and depots were the best he ever saw on any road when said road was seized by bankrupt court and State of Alabama, and up to time of said seizure trains were running regular and said road bid fair to do good business. Travel and freight was daily and rapidly increasing. He further states that the labor's and other creditors of said company were quiet and apparently confident of receiving their entire claims due them from said company up to and to the time of said seizure, and
1152 thinks they would have received their entire dues had said company been allowed to manage and run said road. He further states that said road is in a fearful condition from Birmingham, Ala., to Meridian, Miss., all for want of proper care. A portion of time since said seizure said portion of said road has had no one at work on said road, and at no time a sufficient quantity of men or laborers to keep the said road in proper repair and condition. He further states that the officers appointed by the State of Alabama to manage and run said road allowed engines, cars, & other rolling-stock to be destroyed in a fearful

manner; men in charge of said trains (engines, cars, &c.) were drunken & disorderly & incompetent; neither officers appointed as well as their agents were men of no railroad experience and therefore equally incompetent to supervise or manage any railroad. The receiver for the State of Georgia has sent down said road and collected & gathered up 'recks of trains, consisting of engines, cars, &c., and taken them to shops at Chattanooga, Tenn., for repairs, the southern division paying no attention to said cars as 'recked. He further states that one of company's
1153 new locomotives is lying in the ditch between York station and Meridian, having been thrown in ditch by collision, and said engine still remains in the ditch, has been in ditch, and badly broken and almost totally destroyed, and has laid there from three to four months; cars have been since said seizure (from Tuscaloosa to Meridian, Miss.) scattered along the line and in the ditches of said road and allowed to remain without any apparant effort to recover same by said officers in charge. Nos. three and nineteen engines were brought from southern division by the Georgia receiver to Chattanooga shops in a very bad condition and not fit for use, which have since been repaired and are now in good repair and condition.

A. L. HOWARD.

Sworn to and subscribed before me this 28th day of June, 1872.

DANIEL J. DUFFY,
U. S. Commissioner.

Personally appeared before me, D. J. Duffy, U. S. commissioner appointed by the U. S. circuit court for the district of East Tennes-
1154 see, Miles Pratt, of Chattanooga, Hamilton County, Tenn., who, being duly sworn according to law, says that the Alabama & Chattanooga Railroad while in charge of the company was managed with ability and for the benefit and convenience of the public, trains being run regularly and on schedule time; that after the seizure of said road by the State of Alabama, for some months no trains were run at all, or else without any regularity whatever, and without regard to the convenience of the travelling public. Affiant further states that, on or about August 1, 1871, he heard speeches and addresses made by agent or pretended agents of Alabama, the nature of which were to incite the employees of the said R. R. to give trouble to the officers of said road and lead to damages to property belonging to said company. That the damages to the rolling-stock since the road was taken by Alabama from the company has been at least fifty per cent., and is still deteriorating daily and going to ruin rapidly. Affiant has been engaged in railroading for three years and is capable of judging from experience of damages sustained as above stated, having been employed on the Western and Atlantic Railroad or State Road of Georgia.

MILES PRATT.

Sworn to & subscribed before me this 26th of June, 1872.

DANIEL J. DUFFY,
U. S. Commissioner.

1155 In the circuit court of the United States for the .

Personally appeared before me, Daniel J. Duffy, a United States commissioner for the district of East Tennessee, Hugh Mulligan, who, being of lawful age, a resident of Chattanooga, Tenn., deposes and says: I am a stone-mason by occupation, and in that capacity was employed upon

the Alabama & Chattanooga Railroad during its construction. The road was well built and well equipped, much above the average, and through a section of the country that would give it much local freight, while the development of its mineral resources was destined to make it one of the best paying roads in the South. The road was well operated under the management of the company, and business was done promptly & cheerfully; great confidence was reposed in Mr. J. C. Stanton, the genl. supt. & representative at Chattanooga, Tenn. Affiant is a creditor of the road, and had and still has confidence in the company to meet its liabilities if permitted to regain possession of its property even at this late day.

The rolling-stock of this road was of the best quality and was
1156 being added to constantly to meet the increase of business, which was increasing daily. I was present at the time that General J. H. Clanton, the attorney of the State of Alabama, came to Chattanooga, Tenn., to take possession of the road thro' Tennessee and Georgia, and heard a speech made by him to the creditors, laborers, & employees of the road, the tenor of which was to break the confidence of the creditors in Mr. Stanton's ability to meet his obligations, when, to my knowledge, Mr. J. C. Stanton sold his private property, known as Stanton's subdivision, to any one who desired to purchase, at the same price for claims of the A. & C. R. R. Co. that he did for actual cash, making no distinction whatever.

The conduct of the State attorney was so grovelling, and he was so insulting when under the influence of liquor, which was constant while in Chattanooga, that he insulted one of the creditors of the road, who in turn gave him a terrible whipping. Meetings were called & addressed by attorneys of the creditors, who were interfered with by J. H. Clanton, attorney for Alabama, and upon his following suits instituted, was killed at Knoxville, Tenn., by the son of one of the judges of the supreme bench of the State. Affiant states that the property since taken possession
of by the State has been almost all destroyed—the road per-
1157 mitted to run down for want of a sufficient force to keep it in repair, and the good will and confidence of the company entirely destroyed. The damage at the lowest estimate is fifty per cent.

Affiant is fifty-six years of age, and a resident of Chattanooga, Tennessee, twenty-two years, and worked upon the greater portion of the roads in the South; from his experience, the Alabama & Chattanooga R. R. was the best managed, best constructed of any road affiant ever seen in the country. I rode over the greater portion of the road after completion, and it was then, although a new road, in better condition than any of the old settled roads.

HUGH MULLIGAN.

Sworn to & subscribed before me June 27th, 1872.

DANIEL J. DUFFY,
U. S. Commissioner.

Personally appeared before me, Daniel J. Duffy, a United States commissioner, appointed by the circuit court of the United States of America for the eastern district of Tennessee, H. C. Gross, of Trenton, Georgia, who, after being duly sworn, on oath says that he is twenty-two
1158 years old, and by occupation a railroad man; has been in railroad service for about three years; is well acquainted with the Alabama & Chattanooga Railroad; has been and is now well acquainted with the way and manner in which that part of said road from Chattanooga, Tenn., to Attalla, Ala., has been and is now being run, and since

the seizure by the bankrupt court and the State of Alabama. He further states that great and general dissatisfaction exists against the receiver of that portion of the said road from Chattanooga, Tenn., to Attalla, Ala., in consequence of inferior management, in the increase of charges for freight and passenger', and because of the entire disrespect to the creditors on line of said road. He further states that he is engaged at present as baggage-master on passenger-train on said road running from Chattanooga to Attalla.

H. C. GROSS.

Sworn to and subscribed before me this 26th June, 1872.

DANIEL J. DUFFY,
U. S. Commissioner.

Personally appeared before me, D. J. Duffy, a commissioner appointed by the circuit court of the United States of America for the east-
1159 ern district of Tennessee, Wm. H. Millner, of Chattanooga, Tenn., who, after being duly sworn, says on oath that he was a conductor of a construction-train on the southern division of Alabama and Chattanooga Railroad, and, in the month of June, 1871, he was ordered by the superintendent and chief engineer of said road to assist one W. C. Hodges, agent for S. B. Lowe, of Chattanooga, Tenn., to collect and gather fish-bars and bolts on line of said road, from Meridian, Miss., to Tuscaloosa, Alabama, and ship said fish-plates & bolts to said S. B. Lowe, at Chattanooga, Tenn. He further states that said S. B. Lowe had furnished said road with said fish-plates and bolts, said company desiring to return said fish-plates & bolts to said S. B. Lowe. He further states that he returned to said S. B. Lowe sixteen or eighteen carloads of said fish-plates and bolts, and there remained on line of said road a sufficient quantity to lay ten or fifteen miles of track. He further states that said fish-plates & bolts was on the line of said railroad at the time of the seizure thereof by the bankrupt court & State of Alabama.

WM. H. MILLNER.

Sworn to & subscribed before me this June 28, 1872.

DANIEL J. DUFFY,
U. S. Commissioner.

1160 Personally appeared before me, Daniel J. Duffy, a commissioner appointed by the circuit court for the eastern district of Tennessee, J. M. Thomasson, who, after having been duly sworn, says upon oath that he is twenty-seven years old, and resides in Springville, Alabama, and by occupation a railroad man; has been engaged in the railroad business for the past five years; has been connected with the Alabama & Chattanooga Railroad ever since the beginning thereof, and up to the time of the seizure of said road by the bankrupt court & State of Alabama. Was well acquainted with the management & running of said road while in the hands of said company, and says that the road was in first-class order, and the best constructed road he ever saw; has been on construction of five other and different roads. After the completion of said road, trains run regular, rolling-stock, engines, and cars, as well as all other material, was of best quality & style. He further states that he has been acquainted with the running of said road since the seizure thereof as aforesaid, and to the present time. Trains on the southern division, say from Meridian, Miss., to Birmingham, Ala., run very irregular since the said seizure, & a great portion of the time trains were stopped and held by employees, whom the

1161 State owed for services rendered. Engines were disabled by disconnecting and carrying of' sections; these pieces or sections were sold for supplies on which to live; this was for what the State owed them. Trains were run by gangs of said employees, the fares from passenger & freight collected and devided among the gangs who run the trains; he had seen this done; has also seen the State agent attempt to run trains, but these gangs or employees would not allow him (the agent) to do so; has been over line of said road number of times; has seen engines and cars ditched, some allowed to remain ditched and badly disabled. He further states that, in his opinion, the officers in charge of the road under bankruptcy & State of Alabama was entirely incompetent, and he knows they were void of railroad experience; some of the engineers, fireman, conductors, and other train-men were frequently found drunk while on duty. He has known of trains stopping, and the engineers, conductor, and other hands having trains in charge, and going to whiskey shops, for no other purpose than to take drinks. He further states that the road-bed and track of said road has greatly deteriorated since the seizure of said road by the bankrupt court & State of Alabama; have made but little effort to keep said track & road-bed up and in order, having the majority of the time no men
1162 employed on line of said road in order to keep it in repair. He further states that on the entire line of said road from Chattanooga, Tenn., the northern terminus, & Meridian, Miss., the southern terminus, a distance of two hundred and ninety-five miles, there are but fifty-eight men employed to keep up road-bed & track. He further states that in order to keep said road in proper running and safe condition, a force of section-men should be employed and worked on said road to the amount of three hundred and fifty men constantly. Bridges & trestles on southern division are greatly out of repair and decidedly unsafe; said bridges & trestles were in good repair and condition at the time of said seizure, trains running over and making time with safety at schedule time, from Chattanooga to Meridian in twelve hours. He further says that said road was new, therefore needed a good force of laborers or section-men in order to keep it in good and safe repair. He further states that it will take one & one-half millions of dollars to repair and make the said road, in connection with the rolling-stock and material of all kinds therewith connected, as good as when seized by the bankrupt court & State of Alabama; in other words the A. & C. R. R. Company has sustained a loss from said seizure in wear & tare of road-bed, track, engines, cars, and all other material, and from
1163 other causes, in the aforesaid amount.

J. M. THOMASSON.

Sworn to and subscribed before me this June 27, 1873.

DANIEL J. DUFFY,
U. S. Commissioner.

Personally appeared before me, a commissioner appointed by the circuit court of the United States of America, for the eastern district of Tennessee, Samuel Toms, of Chattanooga, Tenn., who, after having been duly sworn, says on oath that he is twenty-eight years old, and by occupation an engineer; has followed engineering for three years; has been connected with the Alabama & Chattanooga Railroad Company twenty-seven months; was connected with said road and had charge of and run engines or locomotives for said road for twelve months, and for the State of Ala. for five months, after the seizure of said road by the bankrupt court & State of Alabama, and the balance of the time for the

receiver of the State of Georgia. He is well acquainted with said road, both before and since said seizure. There was seventeen first-class locomotives, & in good order, and one second-class locomotive, which
1164 was also in good order, with the exception of a very few which might have been out of repair at the time of said seizure on or about June 8th, 1871; and at that time employees, so far as he knows, were satisfied and working peaceably. The officers, engineers, conductors, & agents were all experienced railroad men, & attended strictly to their business. He further states that after the seziure of said road, June 8th, 1871, the damages to engines, passenger-coaches, baggage, & mail, & freight, and flat-cars, and said road generally, have been damaged to the amount of at least fifty cents on the dollar of their cost and value at the time of said seizure. He further states that the officers who have been put in charge of said road by said bankrupt court and State of Alabama are & have been men without any railroad experience, therefore totally incompetent to take charge of and manage any railroad. Conductors, engineers, & other train-men were drunken loafers, & totally unfit to take charge of and run trains; he has seen conductors in charge of trains stop at stations and whiskey-shops & invite the whole train-crew & take drinks of whiskey; he has taken charge of locomotives because of the absolute drunkenness of engineers in charge. Passengers have frequently refused to ride on said road because the engineers were beastly drunk. Conductors were in the habit generally of
1165 taking bottles of whiskey with them on the trains, and, in short, the officers and men on said southern division of said road were the drunkenest set of men I ever saw anywhere, and were not competent to manage anything; all of which the general officers appointed by said bankrupt court & State of Alabama must have known. The principal portion of the men who had trains, &c., in charge, were men who were discharged by the said company for drunkenness and incompetency, and if they are allowed to run said road the way they are now running it the road will not last ninety days longer, or that they will not be able to run said division ninety days longer.

SAMUEL TOMS.

Sworn to & subscribed before me this June 28th, 1872.

DANIEL J. DUFFY,
U. S. Commissioner.

THE CITY OF CHATTANOOGA,
State of Tennessee:

On this day personally came before me, Daniel J. Duffy, a commissioner appointed by the circuit court of the eastern district of Tenn., John C. Bond, age thirty-four years, a citizen of Dade County, Georgia, near the line of the A. & C. R. R., who, being duly sworn, says
1166 that he has been engaged as an employer on said road for about six months, & during that time he has met the connections of the southern division of said road at Attalla, Birmingham, & Tuscaloosa. The connections between the northern & southern divisions are irregular, because of the mismanagement & bad conduct of the persons controlling the southern division. The road is in bad order, the rolling-stock in bad condition, & the employees frequently under the influence of spirituous liquors, & said employers sometimes threatened to discharge the engineers of the northern division; that the southern division has greatly declined & deteriorated in value since it was seized by the State of Alabama. The amount of damage deponent cannot state. The employees of the southern division threatened to tear up the track and

burn the bridges and trestles to prevent the northern division from running it.

JOHN P. BOND.

P. S.—The northern division is not in as good condition as when the State of Alabama seized it.

J. P. BOND.

Sworn to & subscribed before me this June 27th, 1872.

DANIEL J. DUFFY,
U. S. Commissioner.

1167 Personally appeared before me, D. J. Duffy, a commissioner appointed by the circuit court for the eastern district of Tennessee, George D. Critchet, who, after being duly sworn, says on oath that he is twenty-seven years old, and by profession an engineer; has followed railroading for eleven years. I was employed on the Boston & Lowell, Boston & Fitchburg, York & Richmond Railroads, and on the A. & C. R. R. Affiant was on the southern division in charge of engines Nos. 2 & 10, and passed over the southern division of said road frequently. The road was in first-rate condition & the rolling-stock first class. Affiant left there about the time of the seizure by the State of Alabama & arrived in Chattanooga when the attorney for the State was here to take possession, & heard the speech of Gen'l J. H. Clanton, the attorney, the tendency of which was to break the confidence of the employees in managers of the road. The attorney was drunk all the time he was here, and conducted himself as a perfect rowdy, and treating such men as were calculated to incite disturbance, and kept them with him for that purpose.

Since the seizure by the State of Alabama they have had a collision between engine No. 10 & the Selma passenger-train, making a total wreck of engine No. 10. The road has been much damaged since
1168 in the possession of the State, and no railroad-men have been employed by the State competent to manage the road. The consequence has been that the property has been very much damaged and I should say from my knowledge of railroading that the road and rolling-stock have been damaged at least fifty per cent.; & further deponent saith not.

GEORGE D. CRITCHETT.

Sworn to & subscribed before me this June 27th, 1872.

DANIEL J. DUFFY,
U. S. Commissioner.

Personally appeared before me D. J. Duffy, a commissioner appointed by the circuit court of the United States, for the eastern district of Tennessee, J. P. Gilroy, of Chattanooga, Tenn., who, after having been duly sworn, say' on oath, that he has been connected with the A. & C. R. R. Company, and with the civil engineer corps of said company from November, 1869, the 8th day of June, 1871, and was conversant with the construction of said road from one terminus to the other. The said road was built with the very best material, iron, and c., with the exception of a few temporary trestles which was built. At the time they were built the water was so high that is was thought best to put temporary
1169 trestles, because the engineers could not find a sufficient or suitable foundation. It was thought best to build a few temporary

trestles for the time being; outside of this, the road, for a new one, was the best he ever saw. The said road was finished on the 15 day of May, 1871, and on the 16th day of May, 1871, trains ran through from Chattanooga to Meridian, making time from twelve to thirteen hours, a distance of two hundred and ninety-five miles. Trains continued running on same time until the eighth of June, 1871. There were men sufficient on the line with tools of all kinds to keep the entire road in first-class repair; he never has known of a road being better equipped with tools, hand-cars, and, in short, everything necessary to keep the track in repair, and it was kept up in first-class order until said road was declared a bankrupt and the State of Ala. seized it, which was on or about the 8th day of June, 1871. The general superintendent had discharged one Wheeler, Wagner, Eagar, & others from the southern division of said road for drunkenness and other misconduct as was alleged. Col. J. H. Gindrat, receiver for the State, employed these men, Wheeler, Wagner, Eagar, &c., as soon as the said State took possession of said road. These men were the only dissatisfied men on the entire line of said road. They, with the custodian in bankruptcy, went
1170 from Meridian, Miss., to Tuscaloosa, Ala., where deponent met them, in charge of one engine, two passengers & one baggage car. Said cars were well filled with men; but a very few of these men ever worked on said road previous to this time. They were the roughest set of men he ever saw on a train, appearing as a mob, the majority being armed with pistols, and perfectly reckless. Men on line of road up to this time were perfectly peaceable and quiet. Said train stopping at stations on line of said road; men who were on train making speeches to employees of said company of incitive character, stating to the employees that the officers of the company were cheating them out of their just dues. But a few of said employees were made to believe their story, as they had been paid regularly up to January, 1871. Said company paid their bills up to January 1st, 1871, as prompt as any company I ever knew. Said company had shops at Meridian, Miss., tools for repairing cars, locomotives, and supplies sufficient to run a railroad. Said company's depots were mostly of stone or brick, and as good as you will find on most of the northern roads, water-tanks at convenient points, and in short every convenience for a first-class road; large quantities of old and new railroad iron, with fish-plates & bolts, and
1171 some spikes were on southern division, at the time of said seizure; the quantity he cannot correctly state at the present time. He understands that said iron has been disposed of by the said State's agents. He has been in Chattanooga the majority of the time since the agents of said bankruptcy & State of Alabama have had said road in charge, and has noticed that the engines, coaches, & other cars have been and are now in bad condition. He further states that said agents having said road in charge have damaged, or allowed to be damaged, the road and appurtenances thereunto connected, and from other negligencies & causes, to the full amount of fifty cents on the dollar. Said company had large workshops in Chattanooga, Tenn., to build cars, and cars were in construction in said shops at the time *of* said road was seized as aforesaid.

J. P. GILROY.

Sworn to and subscribed before me the June 28th, 1872.

DANIEL J. DUFFY,
U. S. Commissioner.

Personally appeared before me, D. J. Duffy, a commissioner of the United States circuit court for the district of East Tennessee,
1172 William C. Holleman, who, being duly sworn according to law, deposes and says that he is of lawful age, and a resident of De Kalb County, Alabama; that previous to the seizure by the State of Alabama of the Ala. & Chattanooga Railroad, and while under control of the company, there were from six to ten men employed on each section between Chattanooga and Attalla, Ala., a distance of eighty-seven miles, say sixteen sections; that since said seizure, on or about August 1st, 1871, for the greater portion of the time, no men whatever were employed on said portion of said road, and when any were employed it was only temporary, and often only one or two to the section, consequently this portion of said road has been allowed to be damaged and rendered dangerous in some places. Affiant further states that all movable property at the Eureka coal-mines, in DeKalb Co., Ala., including track-iron, wire cable, coal-cars, scale, &c., &c., have been removed or stolen or carried off or sold since passing into the hands of the agent & receiver of the State of Alabama. Affiant further states that a large majority of the people along the line of the said road (say at least nine-tenths) are opposed to the present management of the said road, it not being run for their benefit or accommodation, but desires that it be returned to the hands of the company or some
1173 party running it in their interest and that of the bondholders. Affiant says that he has resided in De Kalb Co., Ala., for twenty-seven years, and is intimately acquainted with all people living in that section of the country, and along the line of the road. That the rolling-stock, machinery, &c., have been damaged, at the very lowest estimate, fifty per cent., and in many cases much more; that from Eureka, Ala., to Fort Payne, Ala., a distance of seventeen miles, the company had piled on the right of way some twenty thousand crossties, all of which have been removed by private parties and sold for their benefit. All of this occurred while said road was in charge and possession of the agents the States of Alabama & Georgia, and the bankrupt court for the middle district of Alabama.

WILLIAM C. HOLLEMAN.

Sworn to & subscribed before me this June 28th, 1872.

D. J. DUFFY,
U. S. Commissioner.

Ras Hollman, who being duly sworn and of lawful age, deposes and says: I have heard the affidavit of William C. Hollman read, & fully concur in the statements made by him, and, in addition thereto,
1174 defiant states that he has passed over the said road, both previous to and since the seizure by the agent of the State of Alabama; that the road-bed and track have been allowed to run down, and damaged for the want of men on the section to work; that the section between Attalla, Ala., to Birmingham, Ala., a distance of fifty miles, say nine sections; and from Birmingham, Ala., to Meridian, Miss., or, in other words, from Chattanooga, Tenn., to Meridian, Miss, a distance of two hundred and ninety-five miles, but few if any men have been employed on the section; ditches allowed to fill up, cutting off all drainage; weeds overgrowing the track; wood burned up and wasted, & no economy or care being taken of the property on the road. Affiant further states that the company had a large lot of wood piled on the right of way near Holleman's station, Ala., at Wills Valley coal-mine,

and at least one hundred cords of said wood have been stolen & removed by private parties, and for their own benefit; all of which occurred since the road has passed from the control of the company to that of the agent of the States of Georgia & Alabama, &c., &c. Affiant further states that the men employed on said road are inexperienced and without knowledge of railroading, or how to run it to suit the public
1175 and for their accommodation; that at least nine-tenths of the creditors of said company would willingly and unconditionally give all claims they may own and control to have the present management set aside, and the road once more run in the interest of the company and that of the bondholders. Till within the last three months, and while the said road was in charge of the agents of Alabama, the trains were run by a drunken mob on the southern division.

RAS HOLLMAN.

Sworn to and subscribed before me this June 28th, 1872.

DANIEL J. DUFFY,
U. S. Commissioner.

Personally appeared before me, Daniel J. Duffy, a United States commissioner for East Tennessee, Thos. J. Carlile, who, being duly sworn, deposes and says that he was formerly the purchasing-agent of the Alabama & Chattanooga Railroad, to wit, from May, 1869, to October, 1871; that at the time the road was first put into bankruptcy, viz, some time in June, 1871, the road and rolling-stock of said railroad was new, and the road, for a new road, in good condition; but the rolling-stock was more than ordinarily good, and in very fine condition; that the
1176 said road and rolling-stock, even if it had been efficiently and ably used, would have been worse for ordinary wear and tear, but having been badly and recklessly handled by different receivers or their agents, it is impossible to find said road or rolling-stock in a good condition as it was when under the control of the company. Deponent further states that said rolling-stock has been damaged, destroyed, worn out, or otherwise disabled, to a large extent. Deponent further says that it was his duty to purchase all property the company required for the operation of the road, and to dispose of such surplus property, that is, railroad material, as would not be required in the construction or operation of the road; that he remembers of a sale of fish-plates or fastenings having been made to S. B. Lowe, gen'l manager of the Vulcan Iron Works, of Chattanooga, and to the best of his recollection said sale only included the surplus fish-bars or fastenings and the scrap-iron that would not be required to lay the balance of new railroad-iron then on hand; to the best of his knowledge the car-wheels or axles were 'ever sold to S. B. Lowe.

The road was adjudged bankrupt on or about the 8th day of June, 1871, and the company has not had possession of said road or its roll-
1177 ing-stock since, excepting for a few days, say ten or twelve days, when Judge Wm. B. Woods declared said bankrupt proceedings void, and after that the road was taken possession of by the agents of the State of Alabama, and the company have not had possession of said road since, nor have had anything to do with its management.

Deponent further states that the property known as the Eureka Coal-Mine, belonging to A. C. R. R. Company, have been despoiled of all its movable property; the iron track from the base of the mountain to the mouth of the mine has been taken away; the iron-wire cable, costing about 74,000, has been allowed to be taken away; the track-scales, costing

about $1,000, has been allowed to be removed; the coal-cars and much other valuable property has been taken away, while all of said property was in the control and possession of the different receivers.

THOS. J. CARLILE.

Sworn to & subscribed before me June 28th, 1872.

DANIEL J. DUFFY,
U. S. Commissioner.

Personally appeared before me, D. J. Duffy, a commissioner of the United States court for the district of East Tennessee, James R.
1178 Slayton, of lawful age, and a resident of Chattanooga, Hamilton County, State of Tennessee, who, being duly sworn, deposes and says:

The Alabama and Chattanooga Railroad was declared bankrupt by Judge Busteed, on the eighth day of June, 1871, & taken out of bankruptcy on or about the 22nd day of June in the same year. The A. & C. R. R. Co. ran the road as far as Tuscaloosa, Ala., for a few days after that date, when it was seized by the State of Alabama, and since its seizure by the State the A. & C. R. R. Co. nor their agents have had possession of said road, or any part thereof, or of any property belonging to said company or railroad, but it has been in the possession of the agents of the State of Ala., and the different courts, where it was and is in litigation. Mr. John C. Stanton, the superintendant of said railroad co., has not since that time had anything to do with the management of said railroad or any of its assets, and I never knew him in any other capacity than as the superintendant of said company.

JAMES R. SLAYTON.

Sworn to & subscribed before me this June 28, 1872.

DAN. J. DUFFY,
U. S. Com.

1179 Personally appeared before me, D. J. Duffy, a commissioner appointed by the circuit court of the United States for the eastern district of Tennessee, James N. Squires, of Chattanooga, Tenn., who, after having been duly sworn, says on oath that he is twenty-nine years old, and an engineer by profession; has been following engineering for about eight years; he had charge of and run a locomotive on Atlanta & West Point Railroad for about six months, and in the employ of the Nashville Chattanooga Railroad, and the Charlotte & South Carolina Railroad, the South Carolina Railroad, the Winchester & Ala. Railroad, the Old Wills Valley Railroad, and on the Alabama & Chattanooga Railroad, in charge of locomotive and as engineer; was employed as engineer on the said A. & C. R. R. from the time the said Wills Valley Railroad was purchased and became a part of the said Alabama & Chattanooga Railroad, and up to the present time. He says he has run over the entire line of said , part of said time on the northern division & part of said time on southern division, during the aforesaid time as aforesaid. He further says that said Alabama & Chattanooga Railroad was the best road for a new one he ever saw. At
1180 the time it was declared a bankrupt and seized by the State of Alabama, the road-bed was good, cuts well ditched, ties were of best white and post oak principally, iron was of best quality and well connected with fish-plates and bolts; rolling-stock, consisting of locomotives, passenger, baggage, mail and express, freight and box cars,

were all new and in first-class order, excepting one locomotive, and as good as on any he ever saw on any railroad. Said A. & C. R. R. had good shops at Chattanooga, Tennessee, and well equipped, a large quantity of lumber and other material, and supplies on hand at the time of said seizure in sufficient quantity to build a large number of cars; also a first-class round-house of brick or stone foundation, with eleven stalls and a fine turn-table in front thereof; also a fine freight-depot of brick, adequate to the business of one road; depots on line said road were equipped with scales and furniture and telegraph instruments, and said road had a good telegraph-line the entire length of said road, which is two hundred and ninety-five miles in length, and all, both the said road and telegraph-line, in first-class order; and at the time of said seizure its trains were making the best time of any railroad in the southern
1181 country; and that, since the seizure of said road as aforesaid, it has not been managed by men who he would call railroad-men, certainly without experience as such. The same care has not been taken of said road as when in the hands of said company; rolling-stock of all kinds have been greatly damaged, and on the southern division of said road, or within a distance of one hundred and fifty-two miles, it has been fearfully managed—engines, car', passenger & freight & express, mail and baggage, have been thrown into ditches and badly damaged, and in some totally destroyed; track was badly neglected, rails badly bent and damaged for want of proper care, and about forty or fifty miles of said rails will have to be taken up and rerolled before it can be safely used *for* as rails for railroads. He further states that there does not appear to be more than half as many freight-cars on said road as at the time of said seizure. Hand and lever cars on line of said road have been broken up and destroyed.

JAS. N. SQUIRES.

Sworn to & subscribed before me this July 2nd, 1873.

DANIEL J. DUFFY,
U. S. Commissioner.

1182 Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, Norton D. Webster, of Ashville, Alabama, who, being duly sworn according to law, deposes and says that he has been station-agent at Ashville, Ala., for the A. & C. Railroad Company formerly, and lately for the parties in charge for the State of Alabama since they took it in charge. On or about the 29th of February, 1873, a train came from Birmingham, Ala., and the parties in charge of it (unknown to me) took possession of all tickets, tickets' case, & stamp & other papers, and carried them away. Since the State of Alabama took possession of the road the trains have been run regularly and by drunken conductors usually, who were frequently in the caboose or baggage-car drunk and asleep and the trains being run by the brakemen. The cars are all very filthy and badly cut up. The citizens and merchants of Ashville complain of the manner in which their freights are delayed, after being kept at Attalla, Ala., three (3)
1183 and four (4) weeks before they could be brought down; and the original tariff of the company for freights has been nearly doubled by the agents or receivers in charge for the State of Alabama. Local freights coming from Ashville to Chattanooga and other points has often remained in the depot at Ashville three (3) weeks before they could be shipped.

N. D. WEBSTER.

Sworn to and subscribed before me this 13th day of March, 1872.
J. M. JOHNSON,
U. S. Commissioner.

1184 *Package* 5.

Personally appeared before me, William J. Haralson, judge of the fifth judicial circuit of the State of Alabama, James M. Hoge, of Fort Payne, of DeKalb County, in said State, not known to me, who says, on oath, that he is forty-one years of age, & a merchant by profession; that he move' on the line of the Ala. & Chattanooga R. R. at Fort Payne, in January, 1870; that he was an agent for said R. R. Co. from April, 1870, up to June, 1871, except one or two months; that he was appointed as such agent by the State authorities about the time that the State took possession of the road, & continued to act as such agent until about the first of March, 1872; that during the time the road was run by the company his instructions were to charge at the rates of twenty-eight cents per hundred on first-class freight from Fort Payne to Chattanooga, & other class freights in proportion; that soon after the State took possession that his instructions were to charge sixty cents on first-class, & others in proportion from & to same points, & some time after they reduced it to forty-eight cents, & that all the tickets he sold for the company were sold at four,
1185 & all that he sold for the State were sold at five cents per mile; that from the time the State took possession, about 7th of Aug. to the 6th Nov., that several days at a time, & sometimes as much as a week or ten days at a time, there were no trains, & that at no time since the trains have run as regular as when run by the company; that a good portion of the time since January there has been no passenger-trains; that the passenger-cars were attached to the freight, making about half the time that was made by the company. The rolling-stock, to all appearances, is in much worse condition than when run by the co. There would frequently be from one to four hot boxes to the train, & most of the time there were no hands on the road to keep it in repair, & at present there is but three hands to the section of about eight miles; that at the time the road went out of the *profession* of the company there was a vast quantity of wood & & cross-ties on the road for many miles, to the knowledge of affiant; that since that time most of the woods has been consumed or removed, & that during the last month *that* many thousand of the cross ties have been shipped off; that at present the receiver is running an extra daily train to Gadsden,
1186 on which he charges but three cents per mile for about ninety miles; that many of the men who are engaged in running the trains have heretofore had no experience in railroading.

JAMES M. HOGE.

Sworn to & subscribed before me 29th day of June, 1872.
W. J. HARALSON,
Judge Circuit Court.

Charles L. Frost, S. J. Harrison, Hiram B. Crosby, and William F. Drake, all of the city of New York, being duly sworn, upon their oath depose and say, each for himself, that they are second-mortgage bondholders of the Alabama and Chattanooga Railroad Company; that prior to the 22nd day of April, 1872, certain meetings of the holders and owners of the 2nd-mortgage bonds of said company were held at the office

of David Salomon, No. 57 Broadway, in the city of New York, at which deponents were present. That at certain of the meetings held as aforesaid the said David Salomon stated to these deponents that he was the duly-authorized agent of the governor of the State of Alabama, at the same time holding in his hand a letter which he stated was from
1187 the governor, and which he offered to read; and stated that he was authorized by the governor to offer the Alabama and Chattanooga Railroad for sale, and he, said Salomon, did offer it for sale to these deponents.

And these deponents further say that at said meetings said Salomon stated that one Colonel Tate was in the city of New York, personally representing the governor of the State of Alabama, clothed with full authority to make a sale of the said railroad; and said Salomon further stated that if we, these deponents, were not fully satisfied as to his authority, he, said Salomon, would telegraph to the governor to come to New York; that he did telegraph him to come to New York, and that the governor replied he would come to some place in the vicinity of New York if it was deemed to be absolutely necessary for the purpose of effecting the sale of said Alabama & Chattanooga Railroad to the deponents on terms to be agreed upon.

CHARLES L. FROST,
S. J. HARRISON,
For self & other'.
WILLIAM F. DRAKE.
HIRAM B. CROSBY.

1188 UNITED STATES OF AMERICA,
Southern District of New York, ss:

On the 31st day of May, 1872, before me, personally appeared William F. Drake and Hiram B. Crosby, subscribers to the foregoing instrument, and having been by me severally duly sworn, did depose and say that the same was true.

JOSEPH GUTMAN, JR.,
United States Commissioner, S. D. N. Y.

Personally appeared before me, E. L. Clarkson, a notary public for Jefferson County, State of Alabama, Wesley C. Stewart, of Bibb County, Ala., personally known to me, who, after being duly sworn, says, on oath, that he has been engaged in the lumber business on the Alabama & Chattanooga R. R. for two years & a half, & that while the road was in the hands of the company, up to June, 1871, that the road & rolling-stock were in good condition, & the road was well supplied with cars & engines for a new road, & that the road was run by people gentlemanly & efficient men; that the trains ran regular & made good time, & he had no trouble in getting shipping, which was on a large scale;
1189 that since the road passed out of the hands of the company, that much of the time there was no trains run from Birmingham to Meridian; that in passing over that part of the road that he saw, at two or three places, several box-cars turned over & the trux town off, & at other places he saw wheels & a part of trux, & that most of the cars, if not all, that have been run on that part of the road since June, 1871, were with but little or no greese, & neglected in many other respects, until they have all been very materially damaged; that since the road passed into the hands of the State there has been more or less drinking & drunkenness, up to the present time, among the men that have been running & those that control the road; at one time he passed on one of

J. C. Stanton' old passes, (which had expired before the company gave up the road,) because the conductor was so drunk that he did not know his business; drinking & drunkenness was frequent & to an allarming extent.

WESLEY C. STEWART.

Sworn to & subscribed before me this the 29th day of June, 1872.

E. L. CLARKSON,
Notary Public.

1190 STATE OF GEORGIA,
Dade County:

Personally came before the undersigned Martin White, who, on oath, says that he resides in Dade County, Georgia; is thirty-one years of age; that he has been employed for thirteen years in repairing railroad trestle; that he was acquainted with the condition of about one hundred miles of the northern end of the A. & C. R. R.; that at the time of its seizure by the State of Alabama it was in first-rate condition, and that he is acquainted with the condition of about thirty miles of that track at this time, and that to restore it to the condition it was in when it was seized will require an expense of at least five hundred dollars per mile. He further swears that there is now employed on that portion of the track only about two to three men to the section of seven to nine miles, & that such a force is wholly insufficient to keep up the track, not less than one man to the mile being the number necessary to keep up good track.

MARTIN WHITE.

Sworn to & subscribed before me 29th June, 1872. Witness my hand & official signature & seal of office.

JNO. S. NETHERY,
D. Clk.

1191 STATE OF GEORGIA,
Dade County;

Personally came before the undersigned, dep. clerk of the superior court of said county, William M. Kilpatrick, who, on oath, says that he resides in said county, and is thirty-three years old, & that he has been for thirteen years last past employed upon railroad, most of the time repairing and superintending repairs on the track; that he has been on the Ala. & Chattanooga Railroad about twenty-eight months, a portion of the time as road-master & assistant road-master on the northern division of that road, and that he is acquainted with the condition of the track and that portion of the road; that north of Birmingham there was, at the time said road was seized by the State of Alabama, *there was* about one hundred miles of track in first-class condition, and the balance of that division, except about twenty miles, was in good condition, and about twenty miles of it was in tolerable condition, for new road, but, owing to the ground, was not so good in wet weather.

He further states that at present it is not in first-rate condition,
1192 any portion of it; that the ditches are falling in, the rails are becoming kinked, the joints are down, and to restore it to its condition at the time it was taken by the State of Alabama it would require it to be overhauled from one end to the other, at an expense of at least five hundred dollars per mile. He further states that to have

kept said track in good condition there should have been employed on the same at least one man to each mile, and that since the seizure of the road there has not been on an average more than two men to the section of seven to nine miles; and there is at present on the road about that number of men employed repairing the track.

W. M. KILPATRICK.

Sworn to & subscribed before me this 29th day of June, 1872. Witness my hand & official signature & seal of office.

JNO. S. NETHERY,
Dept. Clk.

Personally appeared before me, E. L. Clarkson, a notary public
1193 in & for Jefferson County, Alabama, Daniel Miller, who, after being duly sworn, says, on oath, that he is twenty-two years of age; that he is an engineer by profession; that he has been engaged in running trains as an engineer for over four years; that he was engaged as an engineer for the Ala. & Chattanooga Railroad Company for about eight months, just prior to & at the time it went out of the hands of the company, in June, 1871; that he was then engaged by the authorities of the State of Alabama for 22 days; then he left the road & returned to it the 3rd of April last, & remained up to this time; that at the time the road was in the hands of & under control of the company, the road & rolling-stock was in good condition for a new road, & the road was well supplied with engines & cars of all kinds to do the business of the country, & to carry passengers over the whole road from Chattanooga to Meridian. Freight-trains made regular trips & good time. The passenger-train went through in 14 hours, & both ways each day, with great safety, & was run by and under the control of sober, polite, and attentive men, the most of them men of experience in the business. After the road went into the hands of the State, engine
No. 11 disappeared, & it was understood on the line that she was
1194 hypothecated for money, & she is not on the line up to this time.

And affiant says when he returned to the road, 3rd of April, 1872, he found the road from Birmingham to Meridian, 154 miles, in much worse condition. The great quantity of wood on the line was consumed or removed, & that engines No. 1, No. 2, No. 8, No. 10, that were on that part of the road & in good running condition when he left, were all broken up, & No. 10 in the ditch, & all of the rolling-stock worse, & abused, & much of it broken up. Since he returned, in April 3rd, there has been no passenger-trains. They have been mixed trains, & make the trips from Meridian to Birmingham in 12 hours, & frequently miss the connection at Birmingham with the trains to Chattanooga.

DANIEL MILLER.

Sworn to & subscribed before me this 29th day of June, 1872.

E. L. CLARKSON,
Notary Public.

THE STATE OF ALABAMA,
De Kalb County:

Personally appeared before me, William J. Haralson, judge of the
5th judicial circuit for said State, James J. Hawkins, who is well
1195 known to me, &, after being duly sworn, says, on oath, that he is 57 years of age; that he is a farmer, & resides at Fort Payne, in said county, & on the line of the Ala. & Chattanooga Railroad; that

at the time the road passed out of the hands of the company, in July or August, 1871, that there was, to his knowledge, a vast quantity of wood & cross-ties on the line of the road for many miles; that since that time most of the wood has been used or moved off, & that during the last five or six weeks that many thousand of the cross-ties have been shipped off.

JAMES J. HAWKINS.

Sworn to & subscribed before me June 29th, 1872.

W. J. HARALSON,
Judge Circuit Court 5th Court of Alabama.

Personally appeared before me, Daniel J. Duffy, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, D. A. Gregg, of Jackson, Michigan, who, after *being* having been duly sworn, says, upon oath, that he is twenty-five years old, and was employed on the Ala. & Chattanooga
1196 Railroad, as brakeman on passenger-train on said road, from the ninth of November, 1871, to the 14th of January, 1872, and is acquainted with the entire line of said road from Chattanooga, Tenn., to Meridian, Miss. He has been railroading most of the time for fourteen years, & on the Michigan Central Railroad most of this time, holding different & various positions. He further states that he was employed by the State of Ala. on the 9th day of November, 1871, and continued in the service of the State as aforesaid and on the said road every day up to the time above stated, (Jan'y 14th, 1872.) He further states that the said State had not more than forty men employed to keep said road in repair on a distance of one hundred and seventy-five miles. Engineers and conductors having trains in charge were frequently under the influence of liquor; engineers were often drunk while on duty. He further states that on the entire line of said road, from Chattanooga, Tenn., to Meridian, Miss., there was not a single officer in the management thereof—any who had knowledge of railroading—and wholly incompetent; that the said road was greatly damaged from gross negligence; cars, engines, greatly damaged.

D. A. GREGG.

1197 Sworn to & subscribed before me this June 28th, 1872.

DANIEL J. DUFFY,
U. S. Com'r.

THE STATE OF ALABAMA,
De Kalb County:

Personally appeared before me, William J. Haralson, judge of the 5th judicial court of said State, Seborn L. Brown, who is well known to me, who, after being duly sworn, says, on oath, that he is thirty-eight years old; that he is a section-boss or foreman of sections by profession; that he has been master of sections on railroads for eight or nine years; that he moved from the State road in Georgia to the Ala. & Chattanooga Railroad in 1869; that he was placed on section nine on said road in the fall of 1869, at Fort Payne, (this place;) that he has control'ed said section as the master of said section from that time until the present, (except about one month;) that for several months at first he was furnished ten hands at all times, & sometimes as many as thirteen hands, by the month; & then after 10 or 12 months he was reduced to six hands. At that time the section was six miles in length, & that after the State took the road the authorities gave him six hands for a short

time—18 or 19 days—& then reduced him to four for about 30
1198 days, & that from about the 5th of Aug. to about the sixth of Nov'r there was no hands on the road, & there was no trains run except occasionally a single train was run over; that for a time, before Christmas, in 1871, to some time in March, 1872, he was not furnished any hands; that during that time his business was to walk over the track, & since that there has been but two hands to the section of seven (7) miles; that at the time the road went out of the hands of the company that on this section there was two or three hundred cords of wood that has since been removed; that in the last six weeks there has been a large quantity of cross-ties shipped over the road from other sections.

S. L. BROWN, his + mark.

Sworn to and subscribed before me the 1st day of July, 1872.

W. J. HARALSON,
Judge of the Circuit Court, Fifth Circuit of Ala.

Personally appeared before me, Daniel J. Duffy, a commission' appointed by the district court of the United States of America for the eastern district of Tennessee, Wm. Crutchfield, of Chattanooga, Tenn., who, after having been duly sworn, says upon oath that he was
1199 present at and heard a speach which one J. H. Clanton, agent for the State of Alabama, made at the Burns House, in Chattanooga, Tenn., and his (Clanton's) language was made in such a manner as to incite his hearers. Clanton said that he had taken possession of the A. & C. R. R., from Meridian, Miss., to the State line of Tennessee, and intended to hold it if it took a soldier to every cross-tie, and abusive language was used towards the officers of said company, charging that said officers had bribed the legislature of the State of Alabama, and using other abusive language towards said officers of said company. He also said he was prepared to defend himself against those who took exceptions to his remarks, then and there. There was present a large number of creditors who had worked for said road, and not a single man up to this time had said a word to said Clanton or any other State officer to cause such language. Governor, some ten days afterwards, accompanied *by* said Clanton to said Burns' house, in Chattanooga, and at that place held a meeting, and at that time he, Lindsey, stated that the State of Alabama was amply secured within herself for all the endorsements & credit she, the said State, had given said road,
1200 as he had been offered by several companies eight million dollars, and could sell the road for that amount, and perhaps nine millions dollars, part cash; but the said road was actually worth fifteen million dollars. Deponent further stated he, individually, and his firm, as merchants, was a large creditor of said road; consequently he was anxious to know, and enquired of said governor, that if he, the governor, or State of Alabama took possession of said road, what he proposed to do with the floating and laboring debt thereof, and his answer was that he would run said road until the interest was paid. Here he was interrupted by said Clanton, who stated that the State of Alabama would not pay any of the floating or laboring debt or any of Stanton's debts, nor one dollars thereof; he would sue the said road rot first. The property of said company at Chattanooga and in Tennessee was under attachment and in the hands of the clerk & master of chancery court in Chattanooga. There was no mob holding the property, nor was any threats of mobs. Said governor and his agents got the chancery court in Chattanooga to appoint J. H. Gindrat, the said governor's

1201 private secretary, receiver for the property in Tennessee, said governor pretending to give a bond to the said court to the amount of three hundred thousand dollars, and placed the seal of said State on said bond while in the city of Chattanooga. He further states that a great portion of said property in Tennessee, consisting of lumber and other supplies, has been taken away. The amount he is unable to estimate without taking an inventory of same. Said road has been run by incompetent men. Not a single one who he knows has the least knowledge of railroad business. The said road has not been run to the interest of the creditors, bondholders, or any one else, excepting the officers in charge, as to his best knowledge and belief.

W. CRUTCHFIELD.

Sworn to & subscribed before me this 29th of June, 1872.

DANIEL J. DUFFY,
U. S. Com'r.

Upon further reflection deponent further states that at the time the agents of the State of Alabama were in Chattanooga, Tenn., at-
1202 tempting to get possession of the Ala. & Chattanooga Railroad, J. C. Stanton, the general superintendent of said road, was in New York City for the purpose of procuring money to pay the laboring and floating debt of said company, and the creditors at Chattanooga were in daily communication by telegraph with said Stanton, and he is confident that all that prevented the raising of said money was the action of the said State of Alabama, through her executive, Governor R. B. Lindsey.

W. CRUTCHFIELD.

Sworn to & subscribed before me this June 29th, 1872.

DANIEL J. DUFFY,
U. S. Com'r.

Personally appeared before me, Daniel J. Duffy, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, S. W. Duncan, who, after having been duly sworn, says on oath that he is a citizen of Rome, Georgia, and is twenty-six years old and by profession a railroad man, and has been railroading over six years; commenced in the employ of the Ala.
1203 & Chattanooga Railroad Company about the middle of March, 1869, and continued in the employ of said company until the completion thereof, and until the said road was declared a bankrupt. On or about the 8th of June, 1871, was acquainted with the entire line of said road from Meredian, Miss., to Chattanooga, Tenn., a distance of two hundred and ninety-five miles, and in his opinion said road was the best, and best equipped of any railroad he ever saw, for a new road; he was what railroad-men termed a walking boss, whose duty it is to look after foreman and force on construction. There was on the entire line of said road, during the time of construction, over seven thousand men, and during the construction there never was a single strike among the entire force, and a better set of officers and men he never saw on any railroad. Said company paid, prompt, men and bills up to first of January, 1871, as prompt, and can say more so than any railroad he ever knew. The men, or employees, and officers in charge had perfect confidence in said company, and continued to have up to the time said road was declared a bankrupt as

aforesaid. Said road was fininished on the 15th day of May,
1204 1871, and on next day, the 16th day of May, trains ran from Chattanooga, Tenn., to Meridian, Miss., in twelve to thirteen hours' time, including stops. Said road for a new one was in good shape, equipped with 18 new locomotives, eight first-class passenger-coaches, two new Pul'man sleeping-cars, seven or eight second-class coaches, mail and baggage cars sufficient to do the business, over three hundred freight-cars, all first-class, in good order, hand-cars, lever-cars, tools of all kinds, and tents sufficient to work three thousand men. The iron rails was of first class, laid or fastened with fish-plates and double bolts, the best of post and white oak ties, and about twenty-seven hundred ties to the mile; track well spiked, driving four spikes to every tie, and at every point eight spikes, four on a side; depots were of first class and well furnished with scales and telegraph instruments, and built of stone and wood and brick; said company had machine-shops at Chattanooga, Tenn., where they were building box & flat, passenger, mail, and baggage-cars, repairing and building locomotives; also had
1205 a very fine wood-house, and as fine freight depot and offices as he ever saw on any railroad. Said company was building a fine passenger-depot, 600 by 125 ft., for seven tracks, offices, and reception-rooms for five roads; said depot was all framed, with sufficient iron bolts and iron for covering same to complete said depot; a shops and turn-table, and a good freight and passenger depot, with scales and furniture sufficient, at Meridian, Miss.; said company had and owned a telegraph-line on the whole length of said road, and in their shops at Chattanooga they had lumber, car-wheels, axels, castings of all kinds in sufficient quantity to build about three hundred cars, and had in their store-room oils, paints, car-candles, lanterns, cotton-waste; and all sorts of supplies for running a railroad, to last one year; and derricks, and over two thousand pounds of rope, fall-blocks, stone-tools, two thousand lbs. of steel, hammers, drills, shovels, picks, axes, saws, augers, stoves both cooking & heating, bellasses, and other blacksmith-tools in quantity, about twenty sets of harness complete. But since said seizure of said road in bankruptcy, and by State of Alabama,
1206 there is not material sufficient to build five cars, the store-houses have been stripped of supplies, steel has disappeared, and tools, blacksmith & masons', harness, ropes, has also been taken away. He further states that at the time of the said seizure of said road by bankruptcy and State of Alabama, he had entire charge of all supplies in Chattanooga. The material for the aforesaid new passenger-depot & under construction was mostly thereof taken away; also derricks, plows, scrapers, chains, yokes, have been sold or taken away. This material was worth to the said company at the time of said seizure in the full sum of forty thousand dollars, which is entirely lost to the company. He further says the said company would & was working a coal-mine at Eureka, on line of said road, a distance of thirty-two miles from Chattanooga, fully equipped with iron track three fo'rth' of a mile long, with houses for employees, scales for weighing coal, tools of all kind, & mules, wire-cable one mile in length, with sufficient cars. Said mine was leased at the time of said seizure to G. W. Whitney, of Mass., for
1207 seven years, paying the said company sixty tons of coal per week for the engines and shops of said company, said coal paying said company as rent for said mines. Said mine since said seizure has been stripped of all equipments excepting the houses, and moved from said mines, and to the damage of said company in the amount of seventy-five thousand dollars. Said company had on the line of said road from

Meridian to York Station about three miles of old iron on right of way, which has been sold and taken away by the receivers of said State of Alabama; also five or six miles of new iron at Eutaw, Jones' Bluff, and other places on line of road, with fish-plates and bolts to lay same; said iron on the ground was worth ninety dollars per ton. The foregoing material was on the line of said road, and right of way at the time said road was taken out of the possession of said company; some of said iron went to St. Louis, and sold some to the Vicksburg road; some sent to Rome, Georgia, and sold; he never knew what became of the fish-plates and bolts which were left on the line of said road at the time of said
1208 seizure, but knows that since said seizure that they have been taken away from the line of said road. He further states that the superintendant of said road discharged from southern division of said road some officers and men for drunkenness and charged with stealing, among whom were Wheeler, Wagner, and a lot of others, who afterwards were placed in charge of said road from Meridian, Miss., to the Georgia State line; and at the time the receivers came on line of said road, to take possession thereof, they had with them all of these discharged men and a large number of men who never did any work for said company, armed with pistols; were drinking, making speeches along the line of said road, making threats (disgraceful) against the officers and directors of said company and employees, and would not have a single man who had any regard with & for said company. They seemed regardless of all principal whatever. He never saw such a collection of men together. This gang took possession of said road, with depots connected therewith, discharging agents and other employees, &
1209 placing other men in their places and stead. At this time the said road was well supplied with men and material for keeping up track, bridges, trestle, &c.; said track, excepting a few places, in good shape; the few wet places were being rapidly repaired. Said company had about fifteen hundred men on track for purpose of perfecting and keeping up track, &c. He further states there should have been placed on said line of road, at distances of eight miles, twelve men for the first year after the completion thereof, but since said seizure the most of the time said officers in charge had no men, and at no time did they have more than two to three men to a section of eight miles, and at this the present time there is not a man to look after said track for a distance of one hundred and fifty miles. The track is out of repair, ties sunk in the mud, steps of cars drag in the mud as they pass over said road, rails bent; a large portion of the iron will have to be taken up and rolled over before it can be of any use or value for track. He cannot now make an estimate of the damage, but the damage to said iron is very large. One engine, No. 11, &
1210 called D. N. Stanton, said receivers have hypothicated to the Alabama Central Railroad for the sum of ten thousand dollars, and leased twenty-seven miles of said road, from York Station to Meridian, for twelve thousand dollars per year. They should have had fifty thousand dollars per year. One new engine, No. 10, has been destroyed entirely, others rendered useless by ditching and collisions. The balance of the engines are not worth more than fifty cents on the dollar at the true value of said engines at the time of said seizure. Passenger-coaches which were new at time of seizure, costing said company eight thousand dollars each, have many of them been destroyed; some with lining and cushions and seats cut and destroyed; and, in short, the cars, freight and passenger, would bring not more than fifty cents on the dollar as to what they were worth when said receivers took pos-

session of said road. There has not been, nor is there now, a competent railroad man connected with and in charge of said road on the entire line from Chattanooga, Tenn., to Meredian, Miss.

SAM. W. DUNCAN.

Sworn to & subscribed before me this June 29th, 1872.

DANIEL J. DUFFY,
U. S. Com.

1211 Personally appeared before me, H. W. Perkins, notary public in & for the county of Etowah, & State of Alabama, George Burns, of Attalla, in said county, who is personally known to me, who says, on oath, that he is twenty-nine years of age, and that he has been employed by the A. & C. Road about two and a half years; that in his judgement the said road, (on the 8th of June, 1871,) its rolling-stock and equipments, were in first-class condition; that he has been stationed on that portion of the road lying between Attalla & Meridian, and is knowing to the reckless, unsatisfactory, and unbusiness-like manner in which it has been operated since the State of Ala. commenced operating the southern division, it being a notorious fact that the road has come no nearer coming up to the requirements of the public than a well-organized line of wheelbarrows. During a portion of the month of February, 1872, there was not a single passenger-car running between Attalla, and Meridian, a distance of 208 miles—the coaches having been detached or disabled, owing to the bad condition of the track and reckless running of trains by incompetent train-men; that the freight-trains were run only at intervals, and fell far short of supplying the wants of the public; that great quantities of freight were allowed to collect and remain at Attalla at different periods from two weeks to as many months, with scarcely an effort being made to furnish transportation to destination, much to the annoyance & pecuniary loss of parties who were compelled to patronize the road, & that cars frequently came from Chattanooga to
1212 Attalla loaded with live stock, and invariably had to take the waggon-road from that point to destination or return to Chattanooga. That in his opinion the road, its rolling-stock, &c., is depreciating per c'nt. in value every day, the track being in such condition (through neglect in not having an adequate force to keep it in repair) as to be almost impassable, causing the ruin & destruction of cars & locomotives by their daily run-offs; that, in short, the management of the road since the seizure by the State of Ala. has been & is now such as to excite the disgust of everybody on account of the destructful abuse of the rolling-stock and the glaring incapacity (with two or three exceptions) of the entire crew representing the aforesaid State.

Sworn to & subscribed before me this 29th June, 1872.

GEORGE BURNS.

In testimony whereof I have hereunto affixed my official seal to the same on this day the same bears date.

H. W. PICKENS, *N. P.*

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the U. S. of America for the eastern district of Tennessee, L. R. Frizzell; after having been duly sworn says, on oath, that he is twenty-nine years old; that he has followed railroading as a business for the past eight years; that he has been employed on the A. & C. Road the three years last past, & from June the eighth, (8,) 1870, to the ninth day of June, inclusive, 1872, he held the position

1213 of section-master on said road; was employed as section-master before as well as since the seizure of said road by the bankrupt court & the State of Alabama, & has had occasion, both before & since said seizure, to pass over that portion of the said road from Chattanooga to Tuscaloosa a number of times; knows the condition of that part of the road. He further states that at the time of said seizure by said bankrupt court and said State of Ala. said railroad was in as good condition and as well equipped as any railroad he ever knew. Trains were running regular, making time & good connections—rolling-stock of all & every description was of the best quality, & in excellent order, & of a sufficient quantity to transact the business of the said road at the time of said seizure; supplies of wood cut & in rick or piles on the line of said road in sufficient quantity to supply locomotives, shops, &c., for one year. Deponent further states that since said road passed into & under the control of said bankruptcy & said State of Alabama, the track of said road has not been kept up, large quantities of tools have been stolen, taken away from line of said road, & destroyed. Lever & hand cars have been broken up, worn-out, & rendered worthless; rolling-stock, consisting of locomotives, passenger & freight cars, have been thrown off the track, many entirely destroyed, & many greatly damaged, others allowed to remain in ditch for months, without
1214 the least apparent attention from officers in charge, & in fact the rolling-stock of all kinds & description, the road-bed & tools have been greatly damaged; persons on line of road have been carrying or allowed to carry off wood in a large amount, piled up and belonging to said railroad, to their houses and using it for fuel, without said road receiving any compensation therefor; the officers in charge of said line of road have been negligent, wasteful, and are decidedly incompetent. He further states that many of the employees of said road have not been paid since the said seizure thereof; discord & dissatisfaction prevails generally. He further states that the said railroad & equipments, in his opinion, would not bring more than one-half its value at the time of the aforesaid seizure, and that the damage to said railroad from wear and *tare* of rolling-stock, track, road-bed, culverts, bridges, depots, waste of material, and other causes, will amount at least to seventeen hundred dollars ($1,700) per or each day.

L. R. FRIZZELL.

Sworn to & subscribed before me this 14th day of June, 1872.

J. M. JOHNSON,
U. S. Commissioner, District of East Tennessee.

1215 Personally appeared before me, Dan. J. Duffy, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, R. W. Ruter, of Selma, Alabama, who, after having been duly sworn, says upon oath that he is forty-five years old, and has been connected with railroads ever since he became a man; is familiar with every department of railroading, both in the construction & management. He further states that all new railroads, especially when built so rapidly as the Ala. & Chattanooga Railroad was built, should have for the first year after its completion on each & every section of ten miles of said road not less than fifteen men in constant employ, in order to keep the road-bed and track in good & safe condition. He further states that he has seen a large portion of the rolling-stock belonging to the Ala. & Chattanooga Railroad Company, which has every appearance of being well selected and of first class, and as good as he ever saw on any railroad. He further states that he has no interest

whatever in the Ala. & Chattanooga Railroad Company; his opinion is that he has never, from what he has seen & heard, known rolling-stock on any road so badly abused as since said road went into bankruptcy, and into the hands of the State of Ala., & under their manage-
1216 ment. He further states that he saw one locomotive laying below York Station on said road in a creek branch, a total wreck. He further states that he saw at Meredian, Miss., the southern terminus of said A. & C. R. R., a large amount of rolling-stock, consisting of engines, passenger-cars, freight or box cars, stove up in every possible shape, badly damaged and badly cared for.

R. W. RUTER.

Sworn to & subscribed before me this June 18th, 1872.

DANIEL J. DUFFY,
U. S. Com'r.

Personally appeared before me D. J. Duffy, a U. S. commissioner appointed by the U. S. circuit court for the district of East Tennessee, James Nichols, who, being duly sworn according to law, says that he is of lawful age & resident of Chattanooga, Hamilton Co., Tenn., & employed as a U. S. mail agent on the A. & C. R. R. Some time in the early part of the present year, 1872, while sitting in cars on the A. & C. R. R., he heard W. A. C. Jones, the petitioning creditor in bankruptcy against said company, saying in reference to his claim against said company that he considered it to his interest to co-operate with Gov. Lindsay, of Ala., & that he believed that the only way he could get his money was to force the road into bankruptcy.

JAMES NICHOLS.

Sworn to & subscribed before me this July 1st, 1872.

DANIEL J. DUFFY,
U. S. Com'r.

1217 Personally appeared before me, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, W. A. Carr, a citizen of Chattanooga, Tenn., and of lawful age, who, after having been duly sworn, says that he was in the employ of the Alabama & Chattanooga Railroad Company from the 20th day of July, 1870, & until the seizure thereof by bankrupt court & the State of Alabama. Was acquainted with the management of said road during the aforesaid time, & in his opinion said road was managed as well if not better than any road in the southern country. Said road at its completion was well equipped with locomotives, passenger, freight, baggage, mail, & express cars, of the best quality and in excellent condition; and on and after its completion two daily express & passenger trains ran over said road each way; also two freight-trains each way—the passenger-trains making runs the entire distance of the said road, two hundred & ninety-five miles, & continueing to do so in twelve to thirteen hours, including all stops, up to the time said road was seized by the bankrupt court & the State of Alabama. Two workshops were built in Chattanooga,
1218 Tenn., one for iron-work, the other for wood-work, equipped completely, & adequate to the business of said road. That there was a large amount of material on hand, and in sufficient quantity to build about three hundred cars; a large quantity of supplies, consisting of oils, paints, and other material, sufficient to supply said road for one year, was on hand & in the store-house of said company at Chattanooga. Has been as far as Tuscaloosa, Ala., a distance of 200 miles,

since over line of said road since the said seizure; he found in many places ties sunk in the mud, cars dragging through the mud; he saw cars off the track in several places, badly damaged, with no apparent attempt by the then and present managers of said road to raise or take care of them, and the road & property thereunto belonging seemed to have no attention; he saw but one section-man on the entire line from Chattanooga, Tenn., to Tuscaloosa, Ala., to keep up the track in repair. He further states that the loose property, consisting of supplies in store-house, lumber & iron for new passenger-depot, has mostly disappeared since said seizure. The iron on said road is badly bent and badly damaged; said road is & has been managed since said seizure by a lot of incompetent men, and without any railroad experience. He further
1219 states that he was in the parlor of the Burns House, at Chattanooga, in company of and with Governor Lindsey, of the State of Alabama, who said that said State had a road at a cost the said State only of six to seven millions dollars, which was worth fifteen millions dollars, which ran through the entire State.

W. A. CARR.

Sworn to & subscribed before me this July 1st, 1872.

DAN. J. DUFFY,
U. S. Com'r.

Personally appeared before me, Daniel J. Duffy, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, A. H. Dyer, of Chattanooga, Tenn., who, after having been duly sworn, upon oath says that he is forty-two years old, & by profession railroading; has been in the service of railroads for the past fourteen years, and during the time filled various positions in railroading; worked with and in the employ of the A. & C. R. R. Company from the fifteenth day of May, 1871, to the time of the seizure of said road by the bankrupt court & the State of Alabama. He says that he had passed over said road in charge of trains daily during the time he was connected with said road; and, in his opinion, said road
1220 was as good as any railroad in the southern country. The said road-bed, ties, & iron was of good material and in first-class condition. He further states that the rolling-stock, consisting of locomotives, passenger-coaches, baggage, mail, and express cars, box & freight cars, were all new and well selected, and in first-class order. Said company had workshops at Chattanooga, Tenn., fully equipped and adequate to the business of said road, with lumber and every other kind of material for repairing & building cars in quantity. A large round-house of brick or stone, and depots for freight passengers sufficient to do the business of said road. Said company was about erecting a large passenger-depot at Chattanooga, Tenn., 600 feet long by 125 feet, with all of the timber framed, & a portion of it raised, with bolts sufficient to put it together and iron sufficient to cover same. Supplies were on hand of various kinds in sufficient quantities to last the said road for one year. Said company had on each section, constantly employed in keeping up & repairing said road, an average of ten men, and a sufficient quantity of wood on their right of way to last for twelve months at least. He further states that since the seizure of said road, as
1221 aforesaid, material in store-house and for said new passenger-depot has wrongfully been taken away or stolen, to the great damage of said company, in the amount of forty-five thousand dollars, at least, but he thinks the estimate for damages should be much larger.

He further states that at the time of said seizure said company had a sufficient quantity of lumber and other material, of best quality, to build three hundred cars, but since said seizure said lumber & material have wrongfully disappeared. He further states that said railroad has had incompetent men in charge, and men void of railroad experience, ever since the said seizure thereof. They seemingly take no interest or pay no attention to said road, its engines, cars, &c., &c., but do allow and seem to encourage the waste and destruction of material of all kinds. That said locomotives, or engines, and cars, both passenger & freight, and in fact all rolling stock, is not worth to-day more than fifty cents on the dollar of its real value when it was seized and taken possession of as aforesaid. He further states that there are but two men employed on any section; on some but one man, and on others none.

A. H. DYER.

Sworn to & subscribed before me this July 1st, 1872.

DANIEL J. DUFFY,
U. S. Com'r.

1222 Personally appeared before me, Daniel J. Duffy, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, James Fye, of Chattanooga, Tenn., who, after having been duly sworn, says on oath that he is forty-two years old, and by profession a stone-cutter, and has been in said business ever since he was twenty-one years old. He further states that he was employed as foreman of mason-work and rock-cutter by the A. & C. Railroad Company, from February, 1869, to the completion of said road, 1871. He is acquainted with the construction of said road from one end to the other, and thinks it is the best put-up road for a new road he ever saw in the United States. Has worked on the following railroads: Ft. Wayne, Pittsburgh & Ch'ago Railroad, the Orange & Alexandria, Va., the Southside Railroad, Va., Richmond & Danville Railroad, Va., East Tennessee & Virginia, Memphis and Charleston Railroad, the Raleigh & Charlotte Railroad, N. C., Nashville & Chattanooga Railroad, Tenn., the North & South Railroad in Ala., and several others besides the A. & C. Railroad. He further states that said A. & C. Railroad had at its completion as good rolling-material, locomotives, passenger-
1223 coaches, sleeping-cars, freight and box cars, baggage, mail, & express cars, hand-cars, lever-cars, machine-shops, depots, round-houses, all of first class, & as good as he ever saw on any new railroad; that said road was completed on the 15th day of May, 1871; on and after next day, May 16th, 1871, trains ran from Chattanooga, Tenn., its northern terminus, to Meridian, Miss., its southern terminus, a distance of two hundred and ninety-five miles, in twelve to thirteen hours, including all stops; & that trains continued to run as aforesaid, from and after the aforesaid 16th May up to the seizure of said A. & C. R. R. by bankrupt court & State of Alabama, on or about the 8th day of June, 1871. That said A. & C. R. R. had employed on each section of its entire line from seven to twelve men, for the purpose of keeping up & in thorough repair the road-bed & track; that it had a large supply of tools of all descriptions on hand to keep up said A. & C. R. R. for seven years; it had in shops at Chattanooga, Tenn., material of best quality sufficient, at the time of said seizure, to build three hundred cars, and material in store-house, oils, paints, waste, &c., &c., sufficient to last said road twelve months. A new passenger-depot at Chattanooga, Tenn., was framed at the
1224 time of said seizure, and partly raised, with bolts of iron with

nuts and iron for covering same; said depot was in dimensions 600 feet by 125 feet, with sufficient space within its enclosure for seven tracks, & room for the accommodation of five railroads, with sufficient reception-rooms & offices. He further states that up to January 1st, 1871, said A. & C. R. R. paid the employees and other creditors as good as any new railroad he ever saw, & that the employees and other creditors had *explicit* confidence that they would receive their dues or their entire pay up to and at the time said road was declared a bankrupt; that he never knew of a strike on the entire line of said road. He further states that ever since the said A. & C. R. R. went into bankruptcy and in the hands of the State of Ala., he understands they have not paid their employees to the present time; that a bill was introduced in the legislature of the State of Ala. for their employees on said road, which did not pass. He further states that tools, lumber, iron, and the most of the material for the new passenger-depot at Chattanooga has been stolen, carried away, or sold since said seizure by said State of Ala.; also supplies in store-house, such as oils, lanterns, and all sorts of supplies for running a railroad, have disappeared, and are
1225 not at present on hand. There has been no competent men in charge of the said A. & C. R. R. since said seizure, but it has been managed and run by a mob. The rolling-stock was broken, thrown into ditches; new coaches thrown into ditches and mutilated with knives by cutting of linings and seats; burning of floors; engines burned, and seemingly no one to look after them. The road & rolling-stock has been in such a condition that it could not be used. Within the past few weeks, as he understands, the present incumbents and managers, since a suit has been commenced before Judge Bradley, have been picking up the locomotives & cars, and repairing them, and not making them as good as they were when said road was seized as aforesaid. The track is and has been in bad shape ever since said seizure, from the fact that present incumbents have had no men the majority of the time since said seizure, but now, I understand, they have put from two to three men to a section on the line of portion of said road. The other portion, which is over one-half of said road, there are no men employed to keep up sections. There should be employed at least one man to each and every mile, besides men on what is called a floating-
1226 gang, cuts, and ballasting—three trains of fifty men each. Owing to the neglect of present incumbents the rails of said road is damaged to an amount of fifteen dollars per ton. A great quantity of said rail will have to be taken up and *un*rolled before it ever can be straightened. It is impossible for him to estimate the damage done to said road and company. He has been on the South and North Railroad and found tools, double-faced steel hammers, shovels, picks, derricks, and saw four derricks on the Nashville & Chattanooga Railroad; that one Carlile had all of said material—had been taken from said A. & C. R. R. since said seizure. He further states that the damages to said Alabama & Chattanooga Railroad Company since said seizure will amount to between three and four thousand dollars per day in consequence of the entire neglect and bad management of and by said present incumbents.

JAMES FYE.

Sworn to & subscribed before me this July 1st, 1872.

DANIEL J. DUFFY,
U. S. Commissioner.

1227 Personally appeared before me, D. J. Duffy, a commissioner appointed by the circuit court of the United States of America

for the eastern district of Tennessee, James R. Slayton, who, after having been duly sworn, says on oath that he is a citizen of Chattanooga, Tenn., of lawful age, & was present at & replied to the speech of one James H. Clanton, who was the agent & attorney for the State of Alabama. The substance of the speech of said Clanton was as follows:

1st. The Ala. & Chattanooga Railroad was composed of persons who were not citizens of the South.

2nd. The legislature of the State of Alabama was in a large measure composed of workingmen and negroes, who had no interest in Alabama except to rob and degrade her citizens.

3rd. That the endorsement of the bonds of the Alabama and Chattanooga Railroad was obtained through fraud, corruption, and bribery.

4th. That the Alabama and Chattanooga Railroad Company was a swindling concern, and were now rioting in luxury upon what they had stolen from the State of Alabama.

5th. That he (Clanton) for and in the name of the State of Alabama had taken possession of said railroad from Meridian, Miss, to the
1228 Georgia State line for the purpose of securing said State in its endorsements of said railroad bonds.

6th. That he wanted the assistance of the citizens of Chattanooga in gaining possession of that portion of said railroad lying in Tennessee, and that the State would protect the property said railroad & the interests of the creditors of said road, & would run it if it took a man to every cross-tie on the line of said railroad.

7th. That he would hold himself personally responsible to any one who took exception to what he had stated.

Deponent further states that some ten days after Robt. B. Lyndsey accompanied Gen. Clanton to Chattanooga and called a meeting of the citizens of Chattanooga to arrange terms by which he could get possession of said railroad, but failed to arrive at any compromise. During the whole time the agents of said State of Alabama were industriously at work trying to torment the late employees of said railroad company, and by falsehood and promises of employment and fifty dollars in cash attempted to secure the influence of said late employees in behalf of the State of Alabama; and by calling an indignation meeting, and by using personal violence, attempted to coerce some of those who
1229 would not denounce their faith in the integrity and honest intentions of said railroad company.

Deponent further states that the northern terminus of said road was never at any time in the possession of a mob, but that the creditors of said railroad company had filed bills of attachment, and the property of said railroad company was in the hands of the chancery court of this State of Tennessee. Failing to get possession of said railroad by agreement with the creditors, Gen. Clanton went into the said chancery court and made a motion to have a receiver appointed, and the court appointed one Gindrat receiver of said railroad, and he was placed in peaceful possession of all said property in Tennessee.

Deponent further states that at the time the State was getting possession of said railroad and its assets, that John C. Stanton was in New York for the purpose of raising funds to liquidate the labor and floating debt, and was only prevented (as he believes) from consum'ating said negotiations by the action of the State of Alabama and her agents.

JAMES R. SLAYTON.

Sworn to & subscribed before me this June 29th, 1872.

1230 Personally appeared before me, Daniel J. Duffy, a commissioner appointed by the court of the eastern district of Tennessee, Geo. S. Duncan, of lawful age, who, after having been duly sworn, says, upon oath, that he is a resident of Chattanooga, Tenn., & railroading by profession, & was present at a speech made by Gen. James H. Clanton, of Ala., (& attorney for said State,) at the Burns House, in Chattanooga, which speech had great tendency to incite his hearers, who was composed of laborers & other creditors of the A. & C. R. R. Company. Deponent further says that said Clanton said in his speech that the officers & managers of said road had bribed the legislature of said State, and used other abusive language towards said officers of said company; that he had taken possession of said road from Meridian, Miss., to the Tennessee State-line, and was prepared to defend himself against those who might take exceptions to his remarks, then and there. He also said that the officers of said company had robbed and pocketed the money due the laborers & creditors.

1231 There was not a single man up to this time present who gave him or any other State officer reason or cause to use the language he did use, viz, that he was prepared to defend himself then and there, should any one who might take exceptions to his remarks. He further says that after said Clanton had closed his speech he mingled in and among portions of said creditors, and used abusive language against said company. He further states that when said Clanton, as attorney and agent for said State, was in Chattanooga, Tenn., J. C. Stanton, the general superintendant of said road, was in New York City, for the purpose of procuring money to pay the laboring and floating debt of said company, and the creditors of said company at Chattanooga, Tenn., were in daily communication by telegraph with said Stanton, & deponent is confident that all that prevented him (Stanton) from raising the said money was the action of the State of Alabama through her agents and her execution, R. B. Lindsey.

GEO. S. DUNCAN.

Sworn to & subscribed before me this July 1st, 1872.

DANIEL J. DUFFY,
U. S. Com'r.

1232 STATE OF ALABAMA,
De Kalb County:

Personally appeared before me, Wm. J. Haralson, judge of 5th judicial court of said State, Benj. F. Paine, who is well known to me, who, being duly sworn, says on oath that he is 39 years of age & and is a citizen of said county, & has resided at Valley Head in said county 12 years; has been a engineer 18 years, & was employed by the Alabama & Chattanooga Railroad Co. as such engineer for two years; that at the time of the completion of the road, & at the time it passed out of the hands of the company, the road & road-bed on the upper end of the road, from Chattanooga to Birmingham, 143 miles, was in first-class condition for a new road, except two or three trestles, & the road well supplied with good rolling-stock to answer all the purposes of the country; the trains were run by sober & efficient men, freight-trains made regular trips & good time, the passenger-trains run at least 25 miles an hour with great safety; but that line since it passed out of the hands of the company has been very different; sometimes the trains run irregular, & that for two or three months there were no trains of any kind run; that in the fall, about November, the trains were run again,

1233 & from that time until the present they have been run after some style; sometimes there has been both freight & passenger trains,

but for some time past there has been no passenger-trains, but the passenger-cars have been attached to the freight & made about 10 to 12 miles to the hour, & to all appearance there is not more than half the rolling-stock on the line at this time that there was at the time it went out of the hands of the company, & that it is in a neglected & much worse condition; that for a great portion of the time there were no hands on the road to keep it in repair, & at this time there are but two hands to the section, & on some but one, & on other sections there are none; & that at the time it passed out of the hands of the company there was to his knowledge a vast quantity of wood & good, first-class cross-ties, on the line of the road, & that most of the wood has been consumed or removed, and from this point there has been shipped off the cross-ties, from twelve to fifteen thousand, & sold to other roads within the last three months, & most of them in the last month.

BENJ. F. PAINE.

Sworn to & subscribed before me this 1st day of July, 1872.

W. J. HARALSON,
Judge of the Circuit Court Fifth Circuit Ala.

1234 Personally appeared before me, D. J. Duffy, U. S. commissioner appointed by the U. S. circuit court for the district of east Tennessee, T. M. Haralson, who, being duly sworn according to law, says he is of lawful age & a resident of De Kalb County, Alabama, & a rail-road-man, & is now employed on the Ala. & Chattanooga Railroad, and since its seizure by the agents of the Stat'e of Alabama & Georgia its affairs have been mismanaged and its rolling-stock & material allowed to run down, damag'd, & wasted without any effort on the part of said agent or their employees to protect said property. Affiant states that between Eureka, Ala., & Fort Payne, Ala., a distance of eighteen miles, the company owned and had piled on the right-of-way at least sixteen thousand cross-ties, all of which have been removed and sold by private parties for their own benefit, & without any effort on the part of the agents of Ala. & Georgia to prevent such removal of property. Affiant further states that between Attalla, Ala., & Chattanooga, Tenn., a distance of eighty-seven miles, there was owned by the company & piled on the right-of-way a large lot of, and several thousand cords, the largest part of which has either been used by the parties running said road or else stolen & carried off by private parties for their own
1235 benefit. At Wills Valley coal-mine, in De Kalb County, Ala., a pile of some one hundred & fifty cords wood has been almost entirely stolen or removed by private parties & sold or used by them for their own personal benefit, all without any interference on the part of the agents of the States of Georgia & Alabama or their employees. Affiant further states that a large part of track & road-bed from Attalla, Ala., to Birmingham, Ala., is in bad shape, and in many places dangerous; the joints are down and in bad order; the track out of line, has sunk in mud, all of which has occurred from the want of sufficient force on the section to keep the track in proper repair. The distance from Attalla to Birmingham is fifty five miles. There has not been any sufficient force of men on said road to keep it up and keep the track in order & repair for the last twelve months between Chattanooga, Tenn., & Attalla, Ala., & the road south of Attalla is in far worse shape than it is north of that point. For a new road there should be at least ten or twelve men to each section of eight miles, where there has not been over two or three, & for some months only a boss, who walked over the track.

THOMAS M. HARALSON.

Sworn to & subscribed before me this July 1st, 1872.
DANIEL J. DUFFY,
U. S. Comm'r.

1236 Personally appeared before me, Daniel J. Duffy, a commissioner appointed by the circuit court of the U. S. of America for the eastern district of Tennessee, A. L. Miller, of Chattanooga, Hamilton County, Tenn., who, after having been duly sworn, says on oath that he is forty-five years old; that he is a general business man; has been acquainted with the Alabama & Chattanooga Railroad ever since the beginning thereof & up to the present time; has had many business transactions with said road while in the hands & managed by the company thereof, & am well acquainted with their rolling-stock of all descriptions & kinds, workshops, depots, round-house, offices, & other buildings and appurtenances. He always found the general superintendant in charge as well as the corps of assistants, office men, agents, &c., gentlemanly, prompt, & thoroughly railroad-men of experience and competent to manage the business of said road. He further states that he has been over the line of said road & pronounces it the best built road he ever saw; has been on & over all railroads between here and Chicago and other roads in the North, as well as various roads in the South, therefore speaks from experience and personal knowledge. Has also had many & various business transactions with many other railroads within
1237 the past twenty years. He further states that said Ala. & Chattanooga Railroad Company possessed as good depots, round-house, workshops, locomotives, passenger, baggage, mail & express, freight, hand, & lever cars as he ever saw on any road, at the time of the seizure thereof by bankrupt court and State of Alabama. He further states that he is and has been acquainted with the working & management of said road ever since said seizure, and says that said road has been in the management of inexperienced men, entirely incompetent and 'void of any railroad experience or education; that said managers have allowed said company to go to waste and destruction; locomotives, passengers, freight, hand cars, & lever cars, & all rolling-stock, have been badly broken up, damaged, & destroyed, material in store-house, depots, offices, machine-shops, lumber-yard, carried away, stolen, or otherwise destroyed, all property generally going to destruction as rapidly as possible, and without the least visible attempt to protect, preserve, & take care of same by said parties having charge of said road, to the great damage to said company & road in the full amount of two millions dollars.

A. L. MILLER.

Sworn to & subscribed before me this July 2nd, 1872.
DANIEL J. DUFFY,
U. S. Comm'r.

1238 Southern dist. of Alabama.

SETH ADAMS, FRANCIS B. LOOMIS, & JOHN C. STANTON, trustees, et als.,
vs.
THE ALABAMA & CHATTANOOGA R. R. CO., A. C. LIPPETT, Lewis Rice, and D. N. Stanton, trustees, et als. } In equity.

Affidavit taken in this proceeding, to be used in application for injunction & receiver.

Personally appeared before me, Daniel J. Duffy, a commissioner of the United States circuit court for the district of East Tennessee, John L. Divine, a citizen of the city of Chattanooga, county of Hamilton & State of Tennessee, who, after having been duly sworn, says upon oath that he is about fifty-two years old, and is a general business man of said city, and is intimately acquainted with the Alabama & Chattanooga Railroad, with all its circumstances & surroundings, ever since the beginning thereof and up to the present time. He further states that at and up to the time said road was declared a bankrupt & seized by the State of Alabama the said road was running successfully, with a large daily increase of travel & trade or freight, at which time General J. H. Clanton, as agent for the State of Alabama, arrived in Chattanooga, Tenn., for the purpose of assisting one J. H. Gindrat, claiming to be receiver, to take possession of said road. This action caused a general stampede among the general creditors & employees of said road,
1239 making them (the creditors) believe, that their (Clanton and Gindrat's) action would cause the said creditors to loose their debts, which was due from said road. This excitement continued for several days & until Gov. R. B. Lindsay, the then governor of Alabama, came to Chattanooga himself & requested the creditors of Chattanooga & employees of said road to meet him at the parlor of the Burns House in said city, that he might explain to them (said creditors) his position in reference to said road and the policy he intended to pursue in reference thereto. His explanation of policy & purpose proved to be unsatisfactory to both creditors & employees, as creditors. Upon this the creditors generally called & held a meeting of themselves to determine a policy for their action in the premises; therefore appointed a committee of five to further wait upon said governor. Affiant further states that he was appointed as chairman of said committee, and waited upon said governor the same evening as appointed, and stated to him his object fully under said appointment; to which the governor replied that his main trouble in getting possession of said road was in Chattanooga, & that if her creditors & citizens would assist him in obtaining possession of said road, he could make it to their general interest. He (the
1240 governor) further stated that the said road was worth $3,000,000; he could sell it for $9,000,000, which would more than satisfy and pay off the floating & laboring debt of said road, at the same time making the State of Alabama secure in her endorsement for said road, & at the same time stating that he would not pay a dollar of the floating debt of said road, but that he (Lindsay) thought that he could secure to each creditor their money, provided they (the creditors) would risk everything to him, or rely upon him, and let him work out the difficulty to suit himself, saying at the same time that your (the creditors') capital is in money, as also the Alabama & Chattanooga Railroad Company's capital; that his (Lindsay's) capital is in politics, If I (Lindsey) succeed in getting possession of said road, I (Lindsey) am a made politician, but if I (Lindsey) fail in getting the possession of said road, I (Lindsay) must go up as a politician, or in words to that effect.

Deponent further states that in a short time, about two weeks, after the aforesaid interview, he again visited said Lindsey at said Burns House as govr. of said State, upon which occasion he stated to affiant that the only hope for the creditors of said company was through the process of bankruptcy, and strongly recommend' that course.
1241 Affiant further states that if the said governor of said State of Alabama had not interfered with said company that the entire floating debt would have been paid within a short time after said diffi-

culties occurred and said seizures by said bankruptcy and State, and at the same time said company would have had its road equipped as well as any railroad in the South, and would have had a large travel and freight, larger, perhaps, than any other railroad in the southern country. He further states that since the said road was taken out of the hands of said company, the northern terminus thereof has not had a single man in charge who has been appointed by either the Tennessee courts or the Alabama courts.

JNO. L. DIVINE.

Sworn to and subscribed before me this July 3rd, 1872.

DANIEL J DUFFY,
U. S. Comm'r.

Personally appeared before me, D. J. Duffy, a commissioner appointed by the circuit court of the United States for the eastern district of Tennessee, R. C. McCalla, who, after being duly sworn, states upon oath that he is a resident of Morristown, Tennessee, is forty-six years
1242 old, and is a civil engineer by profession; was employed on the Ala. & Chattanooga Railroad from the 22nd day of February, 1869, to the time of the seizure of said road by the bankrupt-court & State of Alabama as an assistant chief engineer, having the entire charge of construction in that department, and acted as such until the said road was declared a bankrupt; said road was built permanently and a first-class road in every respect, and pronounces it the best he ever saw in the Southern States; has been a civil engineer ever since 1847 and in constant employ as such during the entire time. The drainage particularly excelled that of any road with which he has been connected. The construction of the entire line of said road was left to him and he endeavored to build good road, as his reputation was at stake as an engineer; the only restraint on him was the practice of the most rigid economy consist*ant* with the construction of a first-class road, which was done, and has been so pronounced by a number of the best railroad-men in the country. On one occasion as he passed over said road a gentleman standing at the rear end of the train, looking out upon the track, remarked that this is a magnificent road and that the builders thereof seemed to understand their business, or words to that effect. He enquired of
1243 some gentleman present who the gentleman was who seemed to be so delighted with the road, and was informed that it was the honorable R. B. Lindsay, who was then a candidate for governor of the State of Alabama; he sought & obtained an introduction to said R. B. Lindsay, and had a very pleasant interview with him, mainly touching the subjects of railroads in said State, and his chances for governor in his canvass, in which interview he assured him that his record had proven him to be one of the best friends of internal improvements in the State of Alabama. He further states that the railroad-iron was purchased for, & to all appearances was, first-class iron, weighing fifty-six pounds to the yard & was laid in the most substantial manner, full-spiked, and joints fastened with fish-plates & bolts; the ties were of the best quality of white and post oak timber mainly, & from twenty-four to twenty-seven hundred per mile: the masonry, both bridge and culvert, was constructed with special reference both to ample dimensions and durability of stone & brick, mainly of stone; the superstructure of bridges of the Howe & T trusses, built in the most substantial manner, timber and irons being carefully selected, smaller openings
1244 are spanned by the brace-beam, arch-brace, and double & single

beam bridges, all substantial and fully adequate to the passage of the locomotives adapted by the company; the road-bed was graded to the width of eighteen feet in cuttings, & twelve-feet embankments, with a grade not exceeding fifty-two and $\frac{8}{10}$ feet per mile, most of it being *being* from level to various rates under that. He further states that said company had a good freight-depot at Chattanooga, Tenn., built of brick, with sufficient capacity accommodate all the freight & the principal officers of said company, with a small passenger-depot adequate to the local passenger business for one road, and at the time of the seizure of said road by the bankrupt-court & State of Alabama there was in process of construction a joint passenger-depot intended to accommodate all the railroads centering at Chattanooga, Tennessee, which dimensions were to be about 600 feet by 125 feet, with seven tracks & necessary platforms & flooring, and the requisite number of offices, sitting-rooms, saloons, &c., convenient for the transaction of the joint business of all the roads. The building was mostly framed & partially raised. The plan was wooden frame, fastened with iron bolts, and was to be covered & weather-boarded
1245 with corrugated iron; the main posts were to be set on stone foundations, which were mostly prepared; in fact, the whole building was to be of substantial and permanent character. Said company also had a permanent round house of brick, on stone foundation, with good turn-table in front. Said company has two machine-shops, one for iron-work & one for wood-work, with lumber-yard and dry-house & water-tank connected therewith, & a large amount of lumber, car-wheels & axles, & other material in a sufficient quantity to build a large amount of cars. Said company was building freight & baggage, mail & express cars for the use of the said road, & said company had built two or three passenger-coaches. Said company's locomotives, passenger & freight cars were all of first class, excepting a few flat cars which were on construction. Depots on line of road were principally built of stone & brick, & of first class; equipped with scales & furniture necessary for a depot. Said company owned a telegraph-line the whole length *length* of said road, & a coal-mine about thirty-two miles from Chattanooga, on line of said road, well equipped, with iron track about three-fourths
1246 of a mile long, scales for weighing coal, & other implements to work said mine. He further states that said company had at Meridian, Miss., depots & workshops. He further states that said road was worth at the date the bankrupt-court & State of Alabama seized & took possession of it thirty-three thousand five hundred dollars per mile, making said road worth nine millions seven hundred and fifteen thousand dollars. He further states that said road had nineteen locomotives, which were mostly new and first class. The names of said locomotives were called by the names of the officers of said company who were the most devoted & faithful in its construction, and since said seizure most or all said names have been taken off or defaced. This act of malice & vandalism should be left to speak for itself. He further states that up to about the first of January, 1871, said company paid their obligations more promptly than any company he ever knew, and the officers and employees seemed to have entire confidence in said company. During this time & up to the time said road was declared a bankrupt, on or about June 8th, 1871, there had not been a single strike on the entire line of said road. There were some men on the lower
1247 end of said road, as he understands, were discharged for misconduct, who were afterwards employed by the parties seizing the road as aforesaid to the exclusion of most of the employees who had been faithful to said company. He further states that,

in his opinion, so far as his knowledge extends the present incumbents are not competent to run a railroad properly, & that the property of said road has not been properly cared for; the most of the material of the new passenger-depot at Chattanooga has been carried away. The damage to the track & rolling-stock he is unable to estimate without examining the same closely. He further states that during the winter of 1871 & 2 he met one Thomas Scott in Atlanta, Georgia; he had occasional pleasant interviews with Scott, during which he (Scott) informed him that he (Scott) & W. A. C. Jones, who were partners in bankruptcy, & had instituted bankrupt proceedings against the A. & C. R. R. Co. as the surest way of securing the said railroad company's indebtedness to them; that they were co-operating with the governor of said State of Alabama in putting said road & co. in bankruptcy; that they were in said governor's boat and intended to abandon it whenever it became their interest to do so. He further states that said company made
1248 extraordinary & earnest efforts under many & great disadvantages to complete said road, and having completed said road on the 15th day of May, 1871, through trains were immediately organized & the through running began, & with entire success, which was continued until the seizure of said road as aforesaid. During the time the great United States mail & the express service were secured to said road, *and* deponent, in company with the general superintendant, J. C. Stanton, had gone to New York to confer with said company in regard to the manner and necessity of raising funds to relieve said company of its temporary embarrassments, which negotiations were arrested upon the receipt of the information that the governor of Alabama was seizing said road.

R. C. McCALLA.

Sworn to & subscribed before me this July 2nd, 1872.

DANIEL J. DUFFY,
U. S. Commissioner.

THE STATE OF ALABAMA,
De Kalb County:

Personally appeared before me, William J. Haralson, judge of the 5th judicial circuit of said State, Nichols S. Davenport, of said county, who is well known to me, who, after being duly sworn, says on oath that he is 25 years of age, that he is a merchant by profession, that
1249 he has been regularly engaged in business on the line of Alabama & Chattanooga Railroad from the time of its construction, at Falley Head, until the present time, & has dealt largely in shipping the products of the country, & especially in tan-bark, &c.; that at the time the road was run by the company it was under the control of & run by active, polite, & sober railroad-men; that the road was well supplied with rolling-stock in good condition to answer all the purposes of the country, & that he & other citizens found but little, if any, trouble or delay in making shipments; that the freight-trains run regularly & made good time, & the passenger-trains run from twenty-five to thirty miles a hour with great safety & comfort. Affiant further states that from the time the road passed out of the hands of the company, about July, 1871, to the month of November, that the trains, that were run, were run very irregular & the most of that time there was no trains run on the northern division. Affiant further states that he has frequently been over the road from Chattanooga to Attalla, 87 miles, & made two trips to Birmingham, 143 miles, & that it is within his knowl-

edge that there has been great complaint with the shipping public
1250 since it passed into the hands of the State, & the condition of much of the road & rolling-stock is such that the through travel has virtually ceased, & that much of the time the fair has been one cent. per mile higher, & that the freight has been from fifty to more than one hundred per cent. higher than when it was run by the company. At one time for about 30 days there was about four hands on the road to keep in repair for each section of six miles, & much of the time there was none, & for the last five or six weeks there has not been more than two hands, a boss, to any of the sections, & on some of them there has been none, except that the boss goes over the section to look for obstructions. Affiant further states that at this time there is not more than one-tenth part of the wood on the line that was left at the time it passed out of the hands of the company; he says this because he passed down as far as Birmingham day before yesterday, & returned yesterday.

NICHOLS S. DAVENPORT.

Sworn to & subscribed before me this 1st day of July, 1872.

1251 EXHIBIT P.

Objections and exceptions of respondents to affidavits, &c.

In the circuit court of the United States for the southern district of Alabama. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees, &c., complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, and Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, as trustees, &c., and others, defendants.

Objections and exceptions taken in behalf of the respondents, John F. Bailey, John H. Gindrat, and Samuel B. Jones, to the affidavits and proofs filed in said cause by the complainants and submitted to the court on application for an injunction and the appointment of a receiver in said cause.

1252 1. These respondents object to each and every affidavit filed in said cause in behalf of the complainants for the reason the said affidavits are not properly instituted. None of them are instituted in any cause, and in no way appear to have been taken in this cause. (See Kerr on Injunctions, 614.)

2. These respondents object to the printed affidavits attached to the original bill for the additional causes that they are not originals, but copies at most not properly authenticated, and because they were made, if made at all, before the bill was filed and therefore before this cause was pending. (See Kerr on Injunctions, 613, § 24; Francome vs. Francome, 11 Jur., N. S., 123.) Five of said affidavits attached to the bill, to wit, those of Duncan, Milner, Smith, George, and Robertson,
1253 bear date after the filing of the bill, but as they were filed with the bill and as part thereof, having the clerk's and marshal's endorsement thereon, they must necessarily have been taken before the filing of the bill. But however that may be, they are certainly not ori-

ginals, and the court has no guaranty that they are even copies of genuine papers, and they certainly do not appear to have been taken in this cause or in any cause; nor has the court any evidence that they were ever sworn to before any person authorized to administer an oath. The court cannot recognize the printed name of a commissioner of the United States as his signature.

3. These respondents also object to the pamphlet attached to the original bill purporting to be a "Report of the Special Senate Com-
1254 mittee appointed to investigate the management of the Alabama and Chattanooga Railroad since the seizure of the road by the State of Alabama," on the grounds that it is not authenticated as an original, or as a copy of an original document, but there is no evidence that it was ever sworn to before any officer authorized to administer an oath, that it is res inter alias acta, and not evidence against these respondents for any purpose.

4. The complainants have filed in this cause ninety-eight affidavits besides those attached to the bill in printed form and which have been above objected to. Of these ninety-eight, forty-six are objected to as having been taken before the filing of the bill in this cause, and as they are not instituted in any cause, it cannot be known but that they have been used in other causes. The affidavits are objected to for
1255 both of these causes, and we attach hereto a list of the said forty-six affidavits marked "A," and which is hereby referred to.

5. The last thirteen affidavits upon the list last above referred to are also objected to because they were never subscribed by the parties *parties* purporting to swear; they appear in what seems to be a joint affidavit of thirteen persons, of whom the justice taking the affidavit appears to be one; but none of the parties subscribed the paper.

6. The last seventeen affidavits on said list marked "A," including the thirteen last above referred to, are also objected to because they are not made before proper officers or persons. They are made before per-
sons styling themselves notarys public or justices of the peace,
1256 deputy clerks or chairmen of senate committees, or State judges.

7. A list of the remaining fifty-two affidavits filed in said cause in behalf of the complainants is set out in the paper hereto attached, marked "B." Of this fifty-two all are objected to as not being instituted of this cause, and the last eleven on the list are also objected to as having been made before improper persons, such as justices and notarys' public, or persons styling themselves deputy clerks of State courts and judges of the State.

J. A. ELMORE,
WM. M. BROOKS,
L. P. WALKER,
E. A. O'NEAL,
Solicitors for Assignees.

1257

List A.

1. N. D. Webster.
2. Jacob L. McCullurr.
3. A. C. Carroll.
4. S. H. Coney.
5. Charles W. Moore.
6. Henry L. Chapman.
7. C. H. Mills.
8. Lemuel J. Standifer.
9. B. F. Gardner.
10. John P. Hodges.
11. William F. Goodwin.
12. James H. Van Alstein.
13. Lemuel J. Standifer.
14. Thomas H. Payne.
15. Wm. P. Lynch.
16. Wallace A. Crawford.
17. Howard W. Smith.
18. F. H. Phillips.
19. James Nichols.
20. J. W. Oliver.
21. L. L. Thomasson.
22. E. J. Holcombe.
23. Ellis B. Edwards.
24. James B. Slayton.
25. G. F. Ruoff.
26. Aaron H. Green.
27. James D. A. Harris.
28. Henry N. Snyder.
29. Wm. W. Wood.

1258

30. Wm. T. Stewart.
31. David H. Walker.
32. J. T. Moffett.
33. J. C. Anderson.
34. W. W. Prewitt.
35. Danl. J. Duffy.
36. John Winston.
37. Alfred Collins.
38. L. B. Watts, (the justice who swore himself.)
39. W. J. Roberts.
40. J. B. Sand.
41. D. C. Williams.
42. L. R. Frizzle.
43. J. J. Smith.
44. N. W. Fielder.
45. G. W. Roberts.
46. A. B. Hall.
47. John Pierce.

List B.

George W. King.
James E. Eavis.
George Serrell.
C. C. R. Taylor.

1259

J. S. Burns.
A. L. Howard.
Milo Pratt.
Hugh Mulligan.
H. C. Gross.
W. H. Milner.
J. M. Thomasson.
Sam'l Tour.
J. H. Bond.
Geo. D. Critchett.
J. P. Gilsay.
H. C. Hallern.
Thomas J. Carlile.
J. P. Slayton.
James N. Squires.
R. W. Ruter.
James Nichols.
W. A. Carr.
A. H. Dyer.
James Vye.
James R. Blayton.
Geo. S. Duncan.
Thomas M. Haralson.
A. L. Miller.
R. C. McCalla.
H. M. Smith.
John J. Rutherford.
G. P. McMillen.
Edward Carter.
J. N. Wyrick.

1260

L. F. A. Holliman.
J. M. Hendrix.
John C. Stanton.
R. B. Kyle.
D. A. Gregg.
William Crutchfield.
S. W. Duncan.
L. R. Frizzle.
George Burns.
Seaborn L. Brown.
James J. Hawkins.
Daniel Miller.
William M. Kilpatrick.
Martin White.
Wesley C. Stewart.
James N. Hodge.
R. B. Kyle.
B. F. Paine.
N. S. Davenport.

Filed July 6th, A. D. 1872.

N. W. TRIMBLE, *Clerk.*

1261 S.—*Affidavit of O. H. P. Rogan, for respondents.*

UNITED STATES OF AMERICA:

In the United States circuit court in the southern district of Alabama, in Mobile. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Alabama and Chattanooga Railroad Company, complainants,
against
THE ALABAMA AND CHATTANOOGA RAILWAY Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chattanooga Railway Company, defendants.

Be it remembered that on this the 2nd day of July, 1872, at Knoxville, Tennessee, John Baxter personally appeared before me, J.
1262 S. Payne, a commissioner of the United States for the district of East Tennessee, duly appointed by the honorable circuit court of the United States for the eastern district of Tennessee to take acknowledgments of bail and affidavits, and to take testimony to be used in cases depending in the courts of the United States. Said John Baxter makes oath in due form of law that he is the agent and attorney of the State of Alabama, one of the defendants in the above case; that said case is depending in the honorable circuit court of the United States for the southern district of Alabama, in Mobile, in which case the parties named as complainants in the caption are plaintiffs; that the testimony of O. H. P. Rogan, of Knoxville, Tennessee, is, as he is informed
1263 and believes, material and necessary for the State of Alabama in said suit, and that he, the said O. H. P. Rogan, lived in Knoxville, Tennessee, more than one hundred miles from Mobile, Alabama, where the court aforesaid was appointed by law to be held; that the plaintiffs in this cause live at , in the State of Massachusetts, more than five hundred miles from Knoxville, and that their attorneys live in Alabama and Massachusetts, more than five hundred miles from Knoxville, where said deposition was to be taken.

Whereupon, I being requested by the said John Baxter, in behalf of the said State of Alabama, that the said O. H. P. Rogan might be examined according to the provisions of an act of Congress in such
1264 cases made and provided, I therefore ordered that such O. H. P. Rogan should be examined de bene esse before me, at the office of the treasurer of the East Tenn., Va. and Ga. Railroad Company at Knoxville, Tennessee; and the said witness, O. H. P. Rogan, having appeared before me, at the place aforesaid, on this 2nd day of July, 1872, to answer and the truth to say in response to interrogatories propounded by the aforesaid John Baxter, I proceeded with said examination.

O. H. P. ROGAN, being carefully examined and cautioned and duly and legally sworn to tell the truth, the whole truth, and nothing but the truth, in said cause, deposeth as follows:

Ques. What is your age, occupation, and place of residence and business? Please examine your books carefully and state all the cir-

1265 cumstances connected with the purchase by the East Tenn., Va. and Ga. Railroad Company of an amount or quantity of railroad-iron from one J. C. Stanton during the month of March, 1871. You will also please state in what capacity said Stanton was at that time acting, and what were his representations. Also in whose possession was said iron when delivered to your company. You can also state any other facts connected with this transaction which will be pertinent to the above question.

Answer. I am fifty-six years of age; occupation, book-keeper; place of business and residence, Knoxville, Tennessee. Some time in the spring of 1871, Captain J. Jacques informed me that he was negotiating with J. C. Stanton, superintendent of the Alabama and Chatta-
1266 nooga, for the purchase of a quantity of railroad-iron; this purchase was made, as appears from the bill, on the 31st day of March, 1871, and entered on the books of the East Tennessee, Virginia and Georgia Railroad Company in June, 1871; the amount of iron purchased was 165 $\frac{1568}{2240}$ tons, at $84.87 per ton, amounting to the sum of fourteen thousand and sixty-two $\frac{95}{100}$ dollars; this with fish-plates, bolts, nuts, &c., furnished, amounted to the sum of $15,577.04, less freight-charges $178.79, leaving $15,398.25, was entered to the credit of Alabama and Chattanooga Railroad Company on account of their indebtedness to the East Tennessee, Virginia and Georgia Railroad Company for freights, &c. My understanding and information is that J. C. Stanton was acting as agent of the Alabama and Chattanooga Railroad
1267 Company in the sale of the iron, and that it was to be applied to the credit of the debt due by said company to the East Tennessee, Virginia and Georgia Railroad Company. From the best information I have, the iron at the time of the purchase was in possession of the Alabama and Chattanooga Railroad Company and was on the line of their road. I cannot say what representations the said Stanton made in regard to this transaction. In the first part of this answer I designed saying that I was book-keeper for the East Tennessee, Virginia and Georgia Railroad Company; and further this deponent saith not.

O. H. P. ROGAN.

1268 I, J. S. Payne, a commissioner of the United States for the district of East Tennessee, do further certify that the foregoing deposition was taken by me and reduced to writing in the presence of the witness, and was duly sworn to and subscribed by him, and that I am neither of counsel, attorney, or kin to any of the parties to said suits, nor interested in the event thereof; and the said deposition was retained by me and was not out of my possession or altered before the same was sealed up and addressed to General E. H. O'Neal, Florence, Alabama, and placed in the post-office at Knoxville, Tennessee.

In testimony whereof I hereunto set my hand and official seal at my office in Knoxville, Tennessee, this 3rd day of July, 1872.

[U. S. COM'N'R'S SEAL.] J. S. PAYNE,
U. S. Comm'r, &c.

Filed July 8th, A. D. 1872.

N. W. TRIMBLE, *Clerk.*

1269 T.—*Affidavit of H. M. Smith, for respondents.*

UNITED STATES OF AMERICA:

United States circuit court for the southern district of Alabama. In equity. At Mobile.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Alabama and Chattanooga Railroad Company, complainants,

vs.

THE ALABAMA AND CHATTANOOGA RAILWAY Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage on the Alabama and Chattanooga Railway Company, defendants.

I, Howard M. Smith, a citizen of, and resident in, Hamilton
1270 County, of the State of Tennessee, of thirty-seven years of age, being duly sworn, depose and say as follows: I am, by profession, a master mechanic, and have been connected with the Alabama and Chattanooga Railroad for three years as master mechanic at the shops of the company at Chattanooga, Tennessee. I was appointed by John C. Stanton to the aforesaid place when he was in charge of said road. I was at Chattanooga, Tennessee, in the aforesaid capacity, and had immediate charge of the shops, and all business known and carried on in the department of the master mechanic, when the Alabama and Chattanooga Railroad stopped running, which was in the month of June, (about the 27th,) 1871. In my capacity as master mechanic I had charge of all the repairing, &c., done and necessary to be done
1271 to the rolling-stock and machinery belonging to said railway company

The State of Alabama seized or took possession of said railroad about the 1st of August, 1871, as near as I can recollect. The road had not been in operation by the Alabama and Chattanooga Railway Company, of which said J. C. Stanton was general superintendent, for a month or six weeks prior to this time, but lay idle, no work being done upon it in any of the departments, nor trains being run. When the road stopped it was in very good condition from Chattanooga, Tennessee, to Tuscaloosa, in the State of Alabama, which was, as above said, in June, 1871.

There were eighteen (18) engines on the road, eleven (11) passenger-coaches, first and second class, three (3) mail, baggage, and
1272 express cars, all in good running order except two coaches under repair in my shop, (which have been repaired since the State se zed the road,) and one old engine, which was second-hand and worn.

During the time that the Alabama and Chattanooga Railway Company was operating said road, prior to the month of June, 1871, there were fourteen (14) car-loads of railroad-iron taken and shipped to Attala on said road in the State of Alabama. During the said month of June, subsequent and after the stopping of running of said road, and it is my impression and recollection on the very day that said road ceased operations, said fourteen (14) car-loads of iron were taken off the Ala-

1273 bama and Chattanooga Railroad with the knowledge and consent, I presume, of said J. C. Stanton. There were some spikes got by the agent of the Nashville and Chattanooga road about the 1871. There was a lot of truck-frames and car-forgings, about three thousand dollars' worth, taken from the shops by J. R. Lowe, whether under process or not I do not know, about the time of the stopping of said road.

I was appointed by General W. T. Wofford, receiver for the Alabama and Chattanooga Railroad, on or about the 6th November, 1871, to my former position as master mechanic of the Alabama and Chattanooga Railroad, under authority of the States of Alabama and Georgia. The first train under this administration of the authorities of Georgia
1274 and Alabama run out on or about the 6 November, 1871, and the road was comparatively in good condition.

All the property belonging to my department while the said road had been made in operation of the said Alabama and Chattanooga Railway Company, I found on returning to my old position all to be there except the truck-frames and car-forgings before taken as aforesaid, by said Lowe. During the interval between the time when said railway company ceased operating said road and up to the time when the same was taken possession of by the States of Alabama and Georgia, I was constantly at the shop, watching and caring for the property belonging to the shops as well as I could under the circumstances.

On the 9th day of September, 1871, an inventory of the prop-
1275 erty belonging to the shop at Chattanooga of the Alabama and Chattanooga Railway Company was made by Thomas Webster and C. H. Mills by order of the chancery court of Hamilton County, Tennessee. This inventory I have made a report of to the receiver, General W. T. Wofford, and the same is appended to his answer to the bill filed in this cause, as above set out in the caption, as an exhibit to his said answer, and I here now refer to said report so made by me as master mechanic to General W. T. Wofford, as a part of my deposition. This report contains an accurate statement of the machinery, tools, &c., &c., which came under my charge on taking possession of the office of master mechanic, under the appointment of the receiver as aforesaid, on the 6th day of November, 1871. All of the machinery, tools,
1276 &c., &c., mentioned in the above report were taken charge of by me as master mechanic, and the same is now still in my possession as such, and in as good or better condition for use than when I took charge of the same.

Since the operation of the Alabama and Chattanooga Railway under the authorities of Georgia and Alabama, by Genl. W. T. Wofford as receiver, and who has had immediate charge of the northern portion of said road, the track and superstructures have been kept in good repair by the necessary force being kept constantly employed on it. All necessary repairs have been promptly made on all rolling stock used in the operation of the road under the control of the said William T. Wofford.

All the machinery and tools within my department have been
1277 carefully taken care of, and all repairs promptly made. No abuse of anything connected with the department of the master mechanic has been tolerated. No abuse has been done it, and all the property therein is in first-class condition now, and there is no deterioration in the value of any of it.

There were sold in July, 1871, by civil process from some of the courts of Hamilton County, Tennessee, some car-wheels—about 50, 1 th nk—some oil, and some small suppl es. I think the oil and small supplies

were levied on at the Nashville and Chattanooga Railroad depot. The car-wheels were, I think, levied on before the road stopped running, in June, 1871.

The fixtures to the Eureka coal-mines were levied upon and sold under civil process between the first of July or in August, 1871. I
1278 do not remember the exact time. The process under which the fixtures, &c., were sold were taken out by creditors of J. C. Stanton, or by the employees of the mines. When the road stopped operations under the administration of the Alabama and Chattanooga Railroad Company, the mines were well supplied with fixtures, &c., and in good order; but when the road was put in operation by the authorities of Alabama and Georgia, as aforesaid, the fixtures, &c., belonging to said Eureka mines had all been carried away in the manner above mentioned.

There was also some new railroad iron levied on and sold under civil process at Attalla, Alabama, but in whose favor, or the exact time, I do not remember.

The lumber (or a part of it) for the union passenger-depot was
1279 levied on some time in the month of July, 1871, by certain creditors of the Alabama and Chattanooga Railway Company, by process out of some of the civil courts of Hamilton County, Tennessee. The claims of those creditors matured into judgments and this property, so levied on, was sold to satisfy the same, by a constable of said county, in the month of February, 1872. All of the loose lumber for said depot was levied on and sold as aforesaid under this process. The value of the same I do not know.

The special agent of the State of Alabama, appointed by John H. Gindrat, used every legal effort to prevent said sale.

I have kept day and night watchmen constantly on hand to protect the property in my department. I have often heard the
1280 special agent aforesaid instructing these watchmen to exercise all the diligence possible to take care of and protect the property of the Alabama and Chattanooga Railway Company at Chattanooga, Tennessee. Since the road has been under the management of the Alabama and Georgia authorities as aforesaid, that portion operated immediately by the said William T. Wofford as receiver has been kept up in thorough repair, trains have been run regularly and promptly, meeting with no accidents or delay on account of bad rolling-stock or defective track or road-bed, and employees have been paid promptly, and the business and travelling public well satisfied.

When the said road stopped running in June, 1871, as afore-
1281 said, I had in my department a reliable class of employees, and with some few exceptions they have been retained by me in the employment of the receiver aforesaid. The employees in my department number from twenty to fifty, as occasion requires and the work demands, and they have always been promptly paid. There has been no property of the said railroad in my department squandered or wasted by any employee or agent of the said William T. Wofford, or any of the employees or agents of the said authorities, but a proper economy has been exercised in the use of supplies and property.

I have had an active experience in railroads in different portions
1282 of the country for twenty years. The condition of the Alabama and Chattanooga Railroad from Chattanooga, Tennessee, to Birmingham, Alabama, is as good as when the road stopped in June, 1871, and also as good as when the State seized it, in August, 1871; and if there is any deterioration at all, it is not the result of neglect or careless man-

agement, but simply the natural result of the wear and *tare* arising from a daily and constant use of the same. The same number and amount of car-castings is on hand now that was the time the road ceased to be operated by the Alabama and Chattanooga Railway Company in June, 1871, as aforesaid; and there has been no deterioration in the value of the same. The large amount of assorted lumber that
1283 was on hand at the time of the stopping of the road as aforesaid is still here, with the exception of a small amount used to make repairs, and with the exception of a small amount, about 3,500 feet, taken by one Walter C. Carr, by order of some civil court here, claiming it as having bought it from J. C. Stanton. This lumber has been cared for as well as possible under the circumstances, and if there is any deterioration in the market-value of the same, it is because of the unavoidable exposure of most of it to the elements, it being in the lumber-yard of the Alabama and Chattanooga Railway Company, open and uncovered. I have but one engine under repair now, and it will be turned out in a couple of days. It is needing some light repairs, and
1284 will probably cost $150 to place it in first-class order. I have made repairs, improvements, and additions at various times in my machine-shops to the engines and cars belonging to the northern portion of the Alabama and Chattanooga Railroad. Since it has been under charge of the authorities of Alabama and Georgia I have made a detailed report to General W. T. Wofford, receiver as aforesaid, under his direction, of the amount, character, and value or costs of such repairs, improvements, &c.; and I here now refer to and make said report a part of this my deposition, as showing the same in detail. Said report is made an exhibit to General W. T. Wofford's answer to the bill filed in this case.

1285 The turn-table' in the yard of the Alabama and Chattanooga Railway Company, at Chattanooga, Tennessee, and at Attalla, Alabama, are as good as when the State took charge of the road. The round-house at Attalla is in good order and preservation, and as well taken care of as it could be.

The character of the employees of the entire road is good for sobriety, integrity, caution, prudence, promptness, energy, and economy in the management of the various departments.

H. M. SMITH.

Sworn to and subscribed before me this 27th day of June, 1872.

{ SEAL OF U. S. COMMR. FOR DIST. EAST TENN. } J. M. JOHNSON, *U. S. Commissioner Dist. East Tennessee.*

Filed July 8th, 1872.

N. W. TRIMBLE, *Clerk.*

1286 *Answer of Wm. T. Wofford.*

In the circuit court of the United States for the southern district of Alabama, sitting in equity, at Mobile.

The answer of William T. Wofford to the bill of complaint exhibited against him and others in said court, by Seth Adams, Francis B. Loomis, and John C. Stanton.

This respondent reserving to himself all benefit of exception to the many errors and insufficiencies in said bill contained, for answer thereto,

or to so much thereof as he is advised it is material for him to respond to, answers and says:

He admits that the complainants are non-residents of the State of Alabama, and that their places of residence may be correctly stated in the bill.

Whether as stated in said bill the complainants are the trustees duly appointed and acting as such under the deed of trust or mortgage
1287 set up in the bill and exhibited with it, this respondent is not advised, the only information he has upon that subject being derived from said bill and exhibit.

Of the various acts of legislation by the State of Alabama, referred to in the bill as constituting the incorporation of the Alabama and Chattanooga Railroad Company, this respondent has no such particular knowledge as will enable him either to admit or deny the statements of the bill in respect thereto.

This respondent neither admits nor denies the allegations of the bill in respect to the issue by the Alabama and Chattanooga Railroad Company of the bonds, to secure which the deed of trust or mortgage exhibited with the bill was executed, as alleged in said bill. He has no accurate or particular information upon this subject. He believes, however, that the statements of the bill in regard to the issue of said
1288 bonds and their endorsement by the State of Alabama are correct.

In order that respondent may distinctly and fully show to the court the manner in which he became officially connected with said railroad, and the circumstances under which a considerable portion of said road has been operated by him, he states that in pursuance of an act of the general assembly of the State of Georgia, approved the 20th day of March, 1869, the governor of Georgia endorsed, on behalf of said State, the bonds of the Alabama and Chattanooga Railroad Company to the amount of one hundred and ninety-three thousand dollars, ($193,000.) According to the provisions of said act a lien was retained upon that portion of the road lying in the State of Georgia to secure the State upon her said endorsement; and the governor of said State was directed upon default in the payment of the bonds so endorsed, or any of them,
1289 or of the interest due upon said bonds, or any of them, at maturity, to seize and take possession of all the property of said railroad company, and apply the earnings thereof to the extinguishment of such unpaid bonds and unpaid interest.

Respondent states that the Alabama and Chattanooga Railroad Company made default in the payment of the interest upon said bonds, by reason whereof the State of Georgia was compelled to pay and did pay several instalments of interest on said bonds, amounting in the aggregate to more than thirty thousand dollars, whereupon the governor of Georgia, on the second day of August, 1871, caused the said railroad to be seized in the name of the State, in accordance with the provisions of the act above referred to.

Respondent further states that many creditors of the Alabama and Chattanooga Railroad Company instituted suits and levied at-
1290 tachments upon the rolling-stock and other property of the said company, in Dade County, Georgia, through which county said road runs; and that on the first of September, 1871, the State of Alabama filed a bill in the superior court of said county of Dade, asking for an injunction restraining said attaching creditors and for the appointment of a receiver. The motion for an injunction and receiver was heard before the Hon. J. R. Parrott, at the regular term of Bartow su-

perior court, held at Cartersville, Georgia, in September, 1871. An injunction was granted as prayed for, and this respondent was appointed receiver on the 23rd day of September, 1871, with directions to take charge of and preserve and protect the property of said Alabama and Chattanooga Railroad Company in the State of Georgia, in accordance with the laws of the said State; and also directing him to nego-
1291 tiate with the parties in charge of the said road in other States for the running of said road through its entire length from Meridian to Chattanooga, under the supervision and direction of said court. A transcript of said judicial proceedings is hereto annexed, marked "Exhibit A," and prayed to be taken as a part of this answer. Said proceedings in the superior court were carried before the supreme court of Georgia, which court sustained the decision of Judge Parrott, but modified the decree of the superior court to the extent that the receiver was required to negotiate with the governor of Georgia for the possession of that part of the road and appurtenances lying in the said State, and was directed to hold the same subject to all rights and liens of the State of Georgia, and subject to the right of the executive of Georgia to control the same in accordance with the laws of said State.
1292 Respondent regularly filed his official bond in the penalty of fifty thousand dollars, as required by the court, and accepted the trust, from which he has never been discharged. The Hon. R. B. Bullock, governor of Georgia, would not consent to turn over the road and the rolling-stock to respondent; but upon the resignation of Governor Bullock, his temporary successor, Governor Conly, turned the road over to respondent to be operated by him as receiver, and at the same time addressed a letter to him directing him to hold the road for the enforcement of the lien which the State of Georgia held upon the road-bed, rolling-stock, and other property of the Alabama and Chattanooga Railroad Company within the State of Georgia, in virtue of the endorsement by the State of the company's bonds as aforesaid.

Respondent found all of the road, except that portion in the
1293 State of Georgia, in the possession of J. H. Gindrat, who held the portion of the road which lay in the State of Alabama, under instructions from the governor of Alabama, the same having been seized by said governor in consequence of default in the payment of interest upon the bonds of the company endorsed by the State of Alabama.

The State of Alabama also filed in the circuit court of the United States for the district of Mississippi, and in the chancery court of Hamilton County, Tennessee, bills similar to the one filed in the superior court of Dade County, Georgia, and said courts appointed said J. H. Gindrat receiver of those portions of the road and equipments which were in the States of Mississippi and Tennessee. Respondent dealt with said Gindrat in his capacity of receiver under executive authority in the State of Alabama, and as receiver appointed by the courts
1294 in Mississippi and Tennessee.

In accordance with a verbal agreement entered into between respondent and said Gindrat, respondent proceeded to move the rolling-stock which had been attached in Dade County, Georgia, consisting of three engines and thirty-four cars, from said county of Dade to Chattanooga, Tennessee, the northern terminus of the road, where the company had its workshops, its principal depots, and its principal place of business, and trains commenced running through from Chattanooga to Meridian about the first week in November, 1871.

On the 13th day of November said J. H. Gindrat as agent and receiver of the governor of Alabama, and as receiver of the U. S. circuit

court in Mississippi, and of the chancery court of Hamilton County, Tennessee, entered into a written contract with respondent as receiver for Georgia, a copy of which is hereto attached, marked "Exhibit
1295 B," by the terms of which contract said Gindrat and this respondent were jointly to operate the road from Chattanooga to Meridian, said Gindrat and respondent having equal authority and responsibility in the management of the road.

After this contract had been entered into respondent conceived that there would be entire concert, harmony, and co-operation between said Gindrat and himself in the management of the road; and inasmuch as said Gindrat had been running the trains from Meridian to Attala, respondent verbally proposed to him to act as general superintendent, and left him in entire control of the road; but soon afterwards complaints of mismanagement commenced to reach respondent. These complaints in the course of a few weeks became more serious, involving charges of corruption on the part of some of the employees and officials connected with the road, so that finally respondent repaired to Chattanooga and determined to devote
1296 his entire attention to the management and operation of the road.

It was agreed between said J. H. Gindrat and respondent that respondent should act as superintendent for the northern division of the road, (from Chattanooga to Birmingham,) and that conductors of trains should pay over to the local treasurer at Chattanooga the monies collected from passengers, and the treasurer of the road, Capt. R. C. Randolph, was directed by Col. Gindrat so to dispose the returns of agents and conductors on the northern division as to insure a sufficient fund at Chattanooga to meet all necessary current expenses. This order Capt. Randolph refused to comply with, and in this he was sustained by Col. Gindrat; whereupon it being necessary to pay the hands in the machine shops, and the other employees of the road, respondent, on the 24th of December, 1871, directed the conductors to turn over all
1297 monies collected by them on their arrival at Chattanooga to the local treasurer at that point.

These returns, in the then disordered condition of things, seemed totally inadequate to defray the current expenses of the road. Respondent also found that there were outstanding debts, amounting to more than ten thousand dollars, due to employees and to parties in Chattanooga, Nashville, and other places, contracted by said J. H. Gindrat previously to the 26th of December, 1871, up to which date said Gindrat had exclusive control of the road and its revenues. On said 26th of December the northward-bound trains were stopped at Attalla, a station 87 miles south of Chattanooga, by H. F. Wheeler, who had previously been discharged by respondent as assistant superintendent of the road, but who had been retained by Col. Gindrat in the capacity of superintendent on the southern division.

1298 After this date said Gindrat relinquished all efforts to operate the road between Chattanooga and Attalla, and allowed all trains, freight and passenger, to be turned back at Attalla—the alternative thus presented to respondent of an abandonment of the road between Chattanooga and Attalla, or an attempt on his part to run the road and to connect at Attalla with the trains on the southern end of the line. The mercantile community at Chattanooga and along the line of the road appealed urgently to respondent to operate the road; and this he accordingly undertook to do, under numerous and serious disadvantages and hindrances. All of the engines, except two, and all of the rolling-stock, except one passenger-train, one box car, and a few flat cars, had

been taken to the southern division of the road, so that respondent was obliged to commence the exclusive operation of the road from
1299 Chattanooga to Attalla without a sufficient amount of rolling-stock, and without money wherewith to defray the inevitable current expenses. Trains were, notwithstanding, run regularly, and connected, whenever the same was possible, at Attalla with trains on the southern end of the road.

There was great irregularity, however, in the operation of the road on the lower end; and about the first of April, 1872, that portion of the road between Birmingham and Attalla was abandoned.

Respondent thereupon, in the interest of the travelling and shipping public, extended his operations so as to run trains to Birmingham, a distance of 143 miles south of Chattanooga.

The track between Attalla and Birmingham was found to be in very bad condition, and respondent was engaged for a month or six weeks in putting the same in good repair. Trains were, however, run
1300 with regularity and safety by adopting a slow and careful schedule.

About the last of April that portion of the road between Birmingham and Tuscaloosa, a distance of 54 miles, was abandoned, and respondent thereupon extended his operation of the road to Tuscaloosa, and ran trains regularly to that point for about a month, when said portion of the road between Birmingham and Tuscaloosa was relinquished by respondent to the agents of the Mobile and Ohio Railroad Company, who undertook to run the southern division of the road, from Birmingham to Meridian, under some arrangement with the State of Alabama with which respondent is not conversant.

The Mobile and Ohio Railroad Company continued to operate the southern division of the road until about a month ago, when the assignees in bankruptcy appointed Horace Harding superintendent of the road, as respondent is informed, since which time said
1301 Horace Harding has had the management of the road from Birmingham to Meridian.

The road is therefore at present worked in two divisions; the northern division, from Chattanooga to Birmingham, being under the control of this respondent; and the southern division, from Birmingham to Meridian, being under the control of the assignees in bankruptcy.

When respondent took possession of the road between Birmingham and Tuscaloosa he found the track to be in bad condition, and he improved the same while under his control to the extent of the means at his disposal for that purpose.

Under the direction of respondent the track as far south as Birmingham has been placed and kept in good condition. Great disorder and irregularity had characterized the management of the road below
1302 Attalla previously to its abandonment and occupation by respondent; and two engines (Nos. 19 and 12) were found, one at Birmingham and the other at Tuscaloosa, in a disabled condition, with many of their parts missing. These were brought by respondent to the workshops at Chattanooga and thoroughly repaired, one engine requiring an entire new set of wheels. They are now regularly running on the road. Under respondent's direction all wrecks and broken and abandoned cars were brought from along the line of the road to Chattanooga and repaired. Owing to the small number of engines and cars under the control of respondent they are subjected to unusual wear, but by great attention to the department of machinery everything has been kept in good order. Most of the material in the shops at Chatta-

nooga has been in the hands of the court, so that respondent has had to purchase material for repairs and construction, as well as to
1303 pay the wages of machinists. Respondent appends a report of H. M. Smith, his master-mechanic, marked "Exhibit C," and prays that the same may be taken as a part of this answer. A reference to said report will disclose the amount expended in repairs and construction by respondent since he has been connected with the road; it will be found to be twenty thousand nine hundred and ninety-one $\frac{45}{100}$ dollars. Said H. M. Smith was the master-mechanic of the road before it was seized by the States of Alabama and Georgia, and he is retained in that capacity by respondent. A careful inventory was made of all the tools and material which came into his custody when appointed by respondent as his master-mechanic. Said inventory is on file in the office at Chattanooga.

The workshops are kept in a state of efficiency, and all needful
1304 repairs are promptly made. The allegation of the bill that respondent has "moved off the company's stores, wood, iron, engines, cars, and machinery of great value," is an absolute and unqualified falsehood, without a vestige of even colourable approach to truth. A most vigilant watch and supervision has been exercised by respondent over the property under his control; not one particle of it has been misapplied or moved off by respondent, or by his employees. He has used such portions of the material at the workshops as was not in the custody of the court, in the repair of engines, cars, and the track and superstructures, and has thereby enhanced the value of the road and rolling-stock and property committed to his care; but, as before stated, most of the material used in said repairs has been purchased by respondents and was not turned over to him when he entered upon the management of the road.

1305 A large force has been employed upon the road in putting the track in good condition and in keeping it so. This, with the repairs upon the disabled engines and wrecked cars, has involved a large expenditure of money, for which respondent has had to rely solely upon the earnings of that portion of the road under his control. Besides this, he has from the earnings of the road paid about ($10,000) ten thousand dollars of the debts contracted, as aforesaid, by J. H. Gindrat, before respondent had control of any portion of the road or its revenues. By extraordinary exertions, and the exercise of the most rigid economy, he has been able to defray the current expenses of operating the road, to repair the disabled rolling-stock, to repair and keep up the road-bed and superstructures, and to pay off the debts aforesaid, amounting to ten
1306 thousand dollars. The report of the treasurer, marked "Exhibit D," is hereto attached, and will disclose the receipts and disbursements since the northern division of the road has been operated by respondent. From this report it will appear that the receipts of that portion of the road operated by respondent amount to $65,964.38 and the disbursements to the sum of $62,171.72.

Respondent denies that the "round-house" at Chattanooga is in bad condition; it is, on the contrary, in excellent condition, as are all of the depots and structures appurtenant to the railroad at Chattanooga and on the northern division of the road. The roof of one of the machine-shops at Chattanooga fell in during the past winter from the accumulation of snow, but it was thoroughly repaired by respondent.

1307 The allegations of mismanagement, neglect, waste, improvidence, and misappropriation of property, contained in the bill, so far as the same are applicable to the portion of the road and the

property under respondent's control, are absolutely untrue. No abuse of the property has taken place; no engine or car has been wrecked or thrown from the track or abandoned. On the contrary, all wrecked, disabled, and abandoned property has been gathered up, brought to the shops at Chattanooga, and thoroughly repaired. Not a single accident of any kind has happened on the line of the road operated by respondent since his connection with it. The trains, freight and passenger, are run with regularity and safety, and to the entire satisfaction of the travelling and business public. Every effort is made to accom'odate the public;
and the most vigilant measures are adopted to keep everything
1308 in good condition, and to preserve and protect the property of the road in accordance with the orders of the court under which respondent is acting.

The condition of the road from Chattanooga to Birmingham is good. It has not, as alleged in the bill, deteriorated under the management of respondent, but on the contrary has been greatly improved between Attalla and Birmingham.

The exhibits hereto attached will show the authority under which this respondent has acted. He avers that in all that he has done he has acted in good faith, and with sedulous diligence and attention in the discharge of his duty and in the preservation of the property under his control. He is simply an officer of the court, and has been animated singly by the purpose to hold, preserve, protect, and operate the property entrusted to him in conformity with the orders of the court,
1309 and for the best interests of the community. And now this respondent, having fully answered so much of the bill exhibited against him as he is advised it is material for him to answer, prays to be dismissed, &c., &c.

JOHN T. MORGAN,
LAW'E S. MARYE,
Solicitors for W. T. Wofford.

UNITED STATES OF AMERICA,
District of East Tennessee:

W. T. Wofford, the respondent in the foregoing answer, personally appeared before me, J. M. Johnson, a commissioner appointed by the United States of America for the eastern district of Tennessee, and being duly sworn, made oath that the statements and allegations contained in the said answer, so far as made upon his own knowledge, are true, and so far as made upon information and belief, are true to the best of his knowledge and belief.

WM. T. WOFFORD.

Subscribed and sworn to before me this the 3rd day of July, 1872, at Chattanooga, Tennessee.

[SEAL OF U. S. COMMR.] J. M. JOHNSON,
U. S. Commissioner, Dist. of East Tenn.

1310 EXHIBIT A.

GEORGIA, *Dade County:*

To the honorable Josiah R. Parrott, judge of the superior court of said county and entertaining jurisdiction in chancery therein.

The State of Alabama, complaining, showeth unto your honor that the

general assembly of said State passed an act entitled "An act to establish a system of internal improvements in the State of Alabama," which was approved on 19th of February, 1867, and an act entitled an "Act to amend the law to establish a system of internal improvements in the State of Alabama, which was approved 22nd of September, 1868," and embraced the conditions upon which said State proposed to aid the construction of railroads within its limits; that the Wills Valley Railroad Company was a corporation established by the general as-
1311 sembly of said State of Alabama many years prior to the 6th day of October, 1868, and that the Northeast and Southwest Alabama Railroad Company was also a corporation created by the same authority many years prior to 6th October, 1868; that the general assembly of said State authorized the consolidation of the said two last-mentioned corporations under the name of the Alabama and Chattanooga Railroad Company, and extended to said company the benefits of the acts here'before referred to, authorizing an endorsement by the State of the bonds of railroad companies by an act entitled "An act to authorize the consolidation of the Northeast and Southwest Alabama Railroad Company with the Wills Valley Railroad Company, and to provide for the organization of the corporation formed by such consolidation, and to give it the benefit of said State endorsement of its bonds, and to regulate the said consolidation," which was approved on
1312 6th day of October, 1868, under which act the two corporations therein named did contract together for their consolidation and amalgamation, but on terms which are unknown to your orator; that the general assembly of said State enacted another act, entitled an "Act relating to the Wills Valley Railroad Company and the Northeast and Southwest Alabama Railroad Company," which was approved on the 17th November, 1868, under which the said Wills Valley Railroad Co. was authorized and empowered to purchase at a sale of the said Northeast and Southwest Alabama Railroad, under a mortgage of said road to the State of Alabama, all the property, real and personal, rights, franchises, fixtures, and privileges of the said Northeast and Southwest Alabama Railroad Company; which said several acts of the general assembly of the State of Alabama, marked in the order in which
1313 they are referred to respectively Exhibit A, Exhibit B, Exhibit C, and Exhibit D, and duly authenticated under the law of Congress in such cases made and provided, are hereto attached. Your orator prays that the same may be taken and considered as a part of the bill, with leave of reference thereto as often as may be necessary.

Your orator further shows unto your honor that the said Wills Valley Railroad Company, under the said act of 17th November, 1868, did purchase all the property, rights, and franchises of the said Northeast and Southwest Alabama Railroad Company, and did, in pursuance of the law authorizing it, change its name to the Alabama and Chattanooga Railroad Company, and duly organized as such by an election of a president and board of directors.

Your orator further shows unto your honor that the said Ala-
1314 bama and Chattanooga Railroad Company, proposing to secure the endorsement of its first-mortgage bonds by the State of Alabama, as authorized by the acts hereinbefore referred to, and especially by the acts of 19th of February, 1867, and 22nd September, 1868, did issue four thousand seven hundred and twenty (4,720) of its bonds, each for one thousand dollars, dated on 1st day of January, 1869, and due first day of January, 1889, with interest-coupons attached, a copy of one of which said bonds is hereto attached, marked "Exhibit E."

That the said bonds were issued after the execution of a trust-deed and mortgage by the said Alabama and Chattanooga Railroad Company, to secure their payment, and to protect the State of Alabama in its endorsement of the same; which trust-deed was executed on 19th day of December, 1868; all of which will more fully appear by refer-
1315 ence to a copy of said deed hereto attached, and marked "Exhibit F," which your orator prays may be taken and considered as a part of the bill; which trust-deed was executed under the authority and in accordance with the instructions of the board of directors of said Alabama and Chattanooga Railroad Company, as expressed by a series of resolutions of said board, adopted on 2nd of December, 1868, and embodied in said deed of trust, and after its execution was duly recorded in all the counties of Georgia, Tennessee, Alabama, and Mississippi through which the railway enters, including the county of Dade, in the State of Georgia, as will appear by the certificate of record of the dp. clerk of the superior court of said county of Dade, attached to said Exhibit F.

Your orator further shows that the said bonds were duly en-
1316 dorsed by the then governor of the State of Alabama, and delivered to the said Alabama and Chattanooga Railroad Company.

Your orator further shows unto your honor that the said State of Alabama afterwards, to wit, on the 11th of February, 1870, passed an act entitled "An act to loan the credit of the State of Alabama to the Alabama and Chattanooga Railroad Company for the purpose of expediting the construction of the railroad of said company within the State of Alabama," under provisions of which the governor of said State was authorized and required to issue the bonds of said State, bearing eight per cent. interest, to a sum not exceeding two millions of dollars, to said Alabama and Chattanooga Railroad Company, upon certain conditions and provisions, the principle of which was that the said company should deposit in exchange for said
1317 bonds an equal amount of its first-mortgage bonds, bearing the same rate of interest and secured by a first mortgage on the lands granted by the United States to the said railroad company, and its telegraph-line, and offices, and machine-shops, and coal-mines, and iron or other mineral lands, and iron-manufacturing establishments, and all other property of said company in the State of Alabama, Mississippi, Tennessee, and Georgia; and that the directors, officers, incorporators, and stockholders of said company should be personally liable to the State of Alabama for any loss incurred by it if they should knowingly violate or permit the violation of any of the provisions of said act, or of the act under which its bonds were endorsed by said State as aforesaid.

Your orator further shows unto your honor that, under the last-
1318 recited act, two millions of bonds of the State of Alabama, such as are described in said act, were issued and delivered to said Alabama and Chattanooga Railroad Company, and a mortgage, in pursuance of said act, was executed by said company to said State of Alabama, and duly recorded in the counties through which its road passed, including Dade County, Georgia, all of which will more fully appear from a copy of said act of 11th February, 1870, duly authenticated under the law of Congress in such case made and provided, and hereto attached, marked "Exhibit G," & by a copy of said mortgage hereto attached, marked "Exhibit H," which exhibits your orator prays may be taken and considered as a part of the bill, with the usual leave of the reference thereto.

1319 Your orator further shows unto your honor that, under the legislations of its general assembly above referred to, it had and still has a clear unincumbered lien, superior in dignity and prior to all others upon all the property of the Alabama and Chattanooga Railroad Company in all the States in which its road is constructed and extends, which lien is recognized and protected by the said company in the said first mortgage and trust-deed, besides its mortgage-lien under the mortgage last above referred to.

Your orator further shows unto your honor that the said Wills Valley Railroad Company was chartered by an act of the general assembly of the State of Georgia many years ago, and that it merged into the Alabama and Chattanooga Railroad Company, and the priority of lien of your orator upon the property of said company, as hereinbefore
1320 described, has been recognized by the general assembly of the State of Georgia in an act entitled "An act to extend the aid of the State of Georgia to the Alabama and Chattanooga Railroad Company," approved March 20th, 1869.

Farther complaining, your orator showeth unto your honor that the said Alabama and Chattanooga Railroad Company has flagrantly violated the provisions of the several contracts with the State of Alabama, by which it has secured the bonds of said State and the endorsement of said State of its own bonds. In this connection your orator charges that the whole corporate action of said Alabama and Chattanooga Railroad Company has been irregular and usually informal; that the directors reside beyond the limits of the States through which its
1321 road runs; that no proper publicity has been given to their meeting or to their elections; that public only know Daniel N. Stanton and John C. Stanton in the management of its affairs; the former as president, and the latter as general superintendent; that the money raised from sale of the bonds endorsed and loaned by the State of Alabama has been fraudulently misapplied and used in the purchase of property for the private benefit of the said D. N. and J. C. Stanton and their associates; that said moneys have been recklessly, extravagantly, and illegally employed in a variety of ways for illegitimate purposes, entirely foreign to the purposes which the general assembly of Alabama had in view in extending aid to said company; that a portion of said moneys have been used in the purchase of property which said company was not authorized to hold, and the title thereto taken
1322 in the name of individual member of the company; that the said company has created an immense funded and floating debt which exceeds by millions of dollars the cost of its construction and equipment under proper management; that the said company has improperly and illegally secured the endorsement of the bonds by the State of Alabama to the amount of five hundred thousand dollars in excess of the amount authorized by the laws of said State, and appropriated said bonds or their proceeds in different ways unknown to your orator; that it has failed to pay the interest on the bonds endorsed and loaned by the State of Alabama, in consequence of which your orator has been compelled to pay the interest on two millions of dollars of its bonds loaned besides one hundred and sixty-eight thousand and eighty-
1323 eight dollars of interest on its endorsed bonds which became due on 1st day of January, 1871, and one hundred and ninety-four thousand and one hundred and eighty-nine of interest on the same bonds which became due on the 1st day of July, 1871, making in all the sum of $548,474 & .23 of interest paid by the State of Alabama, and has been rendered liable for the entire principal and interest of the bonds

of said company endorsed by it, as will be seen by reference to the copy of the first mortgage and trust deed hereto appended; that the said Alabama and Chattanooga Railroad Company is entirely insolvent; that the running of its cars has been stopped by its inability to pay its laborers employed and other creditors; that J. C. Stanton, general superintendent, has abandoned it and gone to distant and unknown
1324 parts; that D. N. Stanton, the president of said company, is a non-resident, and that the said J. C. Stanton is a non-resident; that the road of said company is constructed in the States of Tennessee, Georgia, Alabama, and Mississippi; that its property in all these States has been left in the control of subordinates, many of whom have been irresponsible; that, so left, it has been wasted, abused, claimed, and seized by attachment and by every other legal process known to the laws of the said several States; that immense loss has already occurred from these causes and heavy additional loss will occur unless it is prevented by the intervention of this honorable court; that the governor of Alabama has, under authority given him by the law of the State hereinbefore referred to, taken possession of the said road of said
1325 company and placed it in the possession and control of John H. Gindrat as receiver; that the said receiver is operating said road in the State. Alabama and Mississippi; that for various reasons said road cannot be operated by said receiver in Georgia and Tennessee; that the income of said road as operated is inadequate even to pay its working expenses; that the debt of the State of Alabama against said company is more than seven millions of dollars and must be considerably increased; that even if she secures the security pledged her by said company, she must loose heavily; that a part of her security, to wit, the road of said company with its offices, fixtures, and with the offices & fixtures of its telegraphic line, &c., a large amount of its rolling stock, wood, cross-ties, &c., is in the said State of Georgia, and county of Dade, and that the said
1326 property, or a large portion of it, has been levied upon by attachment and judgments founded upon the foreclosure of liens for labor and materials, and now advertized for sale; that the said property is rapidly deteriorating in value and will be sacrificed if sold under the present complication, and this serious and irremid'able injury will be suffered by your orator; that the said creditors who have purchased liens, labor, and material, in the said county of Dade, and Noble and Brothers, the Rome Iron Manufacturing Company, James C. Nisbet, Tandy McGlehen, George Houston, Martin Reed, and Richard Thomasson, all of whom, except Noble and Brothers, J. C. Nisbet, George Houston, the first of whom reside in Floyd and the two last in Dade County, Georgia, are non-residents of the State of Georgia. That
1327 the other creditors suing in said county of Dade are James A. Case, Uriah Castleberry, J. B. Wilkinson, Elisha Majors, F. M. Street, R. A. Morgan, Thomas Blanchard, W. L. Drikill, A. L. Howard, Dernetreus Hargus, C. C. R. Taylor, H. C. Guss, B. P. Majors, K. H. Davis, Smith and Curten, E. D. Graham, Pace and Allison, Rogers and Company, T. J. Morgan, H. G. Wilson, whom your orator is informed are citizens of the said county of Dade, and D. A. Walker, David Crawford, Moses Johnson, George W. Thompson, Peter Boyed. B. H. Brown, W. J. Hamnett, W. T. Dickard, G. W. Bruce, Wm. Garr, Elias Marshall, F. A. James, J. B. Harris, B. F. Gardner, W. M. Killpatrick, J. P. Bond, Sam. Wilkinson, Lowry and Nail, W. C. Millard, B. M. and T. R. Jacoway, T. J. Allison, Thomas R. Jacoway, Martin White, T. J. Scott, J. J. Retherford, J. L. Divine, Davenport and Laney, Rob-
1328 ert Cravatt, Pierce and Bradford, W. A. McCorkle, A. Ischofie,

Watkins and Divine, Divine and Goodwin, J. C. McCallen, Emory Lively, C. O. Whitney, Andrew Frazier, J. N. Metcalfe, Taylor Lyon, W. T. Brown, J. F. Haygood, A. C. Haygood, and H. R. Allen, whose residence' are unknown to your orator.

In consideration whereof and forasmuch *as much* as your orator is entirely remediless in the premises according to the strict rules of common law and can only have relief in a court of equity where matters of this nature are properly cognisable and relievable: To the end, therefore, that the said Alabama and Chattanooga Railroad Company and the said Daniel N. Stanton and John C. Stanton may upon their several corporal oaths or the oaths of the proper officers of said full, true, and direct and perfect answer make to all and singular the mat-
1329 ters hereinbefore stated and charged, and more especially that they may answer and set forth:

1st. Whether the contracts of said company with the State of Alabama are as herein set forth.

2nd. What amount of bonds loan'd or endorsed by Alabama have been received by said Alabama and Chattanooga Railroad Company, and what has been done with each of said bonds, by whom sold, at what rate, by whom purchased, and what application has been made *with* of the proceeds?

3rd. Whether default has been made in payment of interest on said bonds, and, if so, when, and to what extent, and how much of said interest has been paid by Alabama.

4th. What is the amount of said company's indebtedness to
1330 Alabama, and what is the character of that indebtedness?

5th. What property is owned by D. N. Stanton and J. E. Stanton, in their own name or in the name of others for them, in the States of Georgia, Tennessee, Alabama, and Mississippi, when purchased, and how paid for?

6th. What is the indebtedness of said company to D. N. Stanton or J. C. Stanton, and how created?

7th. What is the indebtedness of said road, and the liens upon it? What is the cost of said road, and how much will it take to finish it?

And that the said Alabama and Chattanooga Railroad Company and the said D. N. Stanton and J. C. Stanton come to a fair and just account to your orator, and that any and all property of the said D. N. and J. C. Stanton may be decreed to be sold in settlement of the debt
1331 of your orator; and that the property of said company may be decreed to belong to your orator, and, if necessary, be sold to satisfy its debt; and that a receiver may be appointed to take charge of the property of said company, and administer it under the order of this court; and that an injunction may be issued restraining the suits of the several creditors hereinbefore named, and restraining the transfer or removal of any property by the said company or by the said D. N. and J. C. Stanton; and that the said creditors may by proper order be made parties to this bill, and that your orator may have such further and other relief in the premises as the nature of his case may require and to your honor may seem meet.

May it please your honor to grant unto your orator not only
1332 the State's most gracious writ of injunction, directed to the said Alabama and Chattanooga Railroad Company, and the said D. N. Stanton and J. C. Stanton, and to the said creditors hereinbefore named severally, enjoining them as herein prayed; that also the State's writ of subpœna directed to the said Alabama and Chattanooga Railroad Company, and the said D. N. and J. C. Stanton, and the said

creditors hereinbefore named, to be and appear at the next term of the superior court of Dade County, and to stand to and abide and perform any further order or decree that may be made by your honor in the premises ; and your orator will ever pray, &c.

NISBET AND JACKSON,
Solicitors for the State of Alabama.

1333 STATE OF TENNESSEE,
Hamilton County:

Before me in person came Robert B. Lindsay, who, being duly sworn, deposes and says that the facts stated in the foregoing bill are true of his own knowledge, except those stated upon information and belief, and that he believes those so stated to be true as stated, and that he has learned the facts which are charged in the said bill as the governor of the State of Alabama.

ROBERT B. LINDSAY,
Governor of the State of Alabama.

Sworn to and subscribed before me this 1st September, 1871.

JNO. P. LONG,
Commissioner of Deeds for State of Georgia in Tennessee.

1334 CHAMBERS,
Cartersville, Georgia, September 2nd, 1871.

Read and considered. It is ordered by the court that defendants show cause before the undersigned, by ten o'clock a. m., at the court-house, in Cartersville, Georgia, on Tuesday, the 18th instant, why injunction shall not be sanctioned and receiver be appointed according to the prayer of the bill, and that defendants be served with a copy of this bill and order ten days before such hearing, and that temporary injunction be issued as in prayer until said hearing.

J. R. PARROTT,
J. S. C. C. C.

CHAMBERS,
1335 *Cartersville, Georgia, Septr. 20th,* 1871.

THE STATE OF ALABAMA
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, James A. Case, Uriah Castleberry, et als.

} Bill for injunction, appointment of receiver, &c., in Dade Superior Court, State of Georgia.

After hearing argument of the counsel and considering the answer submitted in said case, it is ordered by the court that the State's writ of injunction shall issue in accordance with the prayer of complainant's bill. But that said injunction shall not restrain or interfere with the sale of said railroad by the governor of Georgia according to the laws of said State.

It is further ordered by the court that William T. Wofford, of
1336 the county of Bartow, in this State, be and he is hereby appointed receiver in said case, to take charge of and preserve and protect the property of said Alabama and Chattanooga Railroad Company in accordance with the laws of this State applicable to said case. It is further ordered by the court that said receiver shall, before taking charge of said property and entering upon the discharge of his duties

as such, give bond with good security in the sum of fifty thousand dollars ($50,000) for the faithful performance of the duties devolving upon him according to the orders of this court and the laws of said State governing this case, which bond shall be approved by this court.

It is further ordered by this court that such other and further proceedings be had in said case as are usual in equity.

1337 Given under my hand and official signature.

J. R. PARROTT,
J. S. C. C. C.

THE STATE OF ALABAMA
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

The receiver appointed in the above case, so soon as he is qualified as required by the order of appointment, is directed to take into his custody and safe-keeping that portion of the Alabama and Chattanooga Railroad Company now in said State of Georgia, of every kind and description whatever.

And it is further ordered, that said receiver negotiate with the
1338 parties in charge of and controlling other parts of said Alabama and Chattanooga Railroad situated in other States for the running of said road through its entire length, from Meridian to Chattanooga, under the direction and supervision of the court.

J. R. PARROTT,
J. S. C. C. C.

I certify that the above is a copy of the bill and orders in the above-stated case this 24th January, 1872.

SEAL OF SUPERIOR COURT DADE COUNTY, GEORGIA. (Signed) M. A. B. TATUM,
C. S. C.

1339 EXHIBIT B.

STATE OF TENNESSEE,
Hamilton County:

Memorandum of a contract made and entered into this 13th day of November, 1871, between John H. Gindrat, agent and receiver of the governor of Alabama, and receiver appointed by the circuit court of the United States, in Mississippi, and receiver appointed by the chancery court of Hamilton County, Tennessee, for that part of the Alabama and Chattanooga Railroad lying in Tennessee, Alabama, and Mississippi, and all the other property of said company in said States, of the one part, and William T. Wofford, agent and receiver of the governor
of Georgia, appointed by the superior court of Dade County, for
1340 that part of the said road lying in the State of Georgia, and all the other property of the said company lying in the State of Georgia, witnesseth:

That the said parties in the capacities aforesaid agree to run and operate the Alabama and Chattanooga Railroad from Meridian, Mississippi, to Chattanooga, Tennessee, upon the following terms:

1st. That the entire expenses of running, operating, and maintaining said railroad, by the agents, conductors, and section-force, properly chargeable for running, operating, and maintaining said railroad, shall

be paid from the gross receipts from freights, passengers, and all other sources, exclusive of all expenses properly chargeable to construction-accounts.

1341 2nd. The expenses of constructions, and such expenses as are properly chargeable to construction-account, incurred in the States of Alabama, Mississippi, and Tennessee, shall be paid by said John H. Gindrat, receiver and agent, and the expenses properly chargeable to construction-account incurred in the State of Georgia shall be paid by the said William T. Wofford, receiver and agent.

3rd. The profits, after paying all expenses exclusive of construction-expenses, shall be divided equally per mile pro rata, according to the amount of rolling-stock, the number of miles over which each receiver and agent has authority by virtue of the appointment referred to, the said John H. Gindrat, agent and receiver, having authority over

1342 miles being in Alabama, Mississippi, and Tennessee, and engines, passenger-cars, freight-cars, , and the said W. T. Wofford, agent and receiver, having authority over miles, being in the State of Georgia, and engines, passenger-cars, freight-cars .

4th. All future taxes on the whole property of said company, State, county, corporation, and internal-revenue tax, shall be paid from the gross receipts and revenues received before any division of profits shall be made.

1343 5th. The contract made by Colonel John H. Gindrat with the Nashville and Chattanooga Railroad Company touching the use of their road is hereby affirmed and ratified.

6th. John H. Gindrat, receiver and agent, is recognized by this contract as being in the exclusive possession of that part of said railroad in the States of Alabama, Mississippi, and Tennessee, and the rolling-stock, depots, machine-shops, and all other property of said company, now in his control, real and personal, in said States, and the said William T. Wofford, receiver and agent, is recognized as being in the exclusive possession of that part of said railroad in the State of

1344 Georgia, and the rolling-stock, depots and all other property, real and personal, in said State, now in his control. The true intent of this article being that the rights of either party to this contract shall not be compromised or the status changed.

7th. Settlements between the parties shall be made monthly, and either party may recede from and dissolve this contract upon giving to the other party ten days' notice, in writing, or such other notice as may be satisfactory to both parties, and restoring the actual possession and status of the whole property as it now stands.

In testimony whereof the said parties have affixed their hands

1345 and seals the day and year *year* aforesaid.

Signed in duplicate.

(Signed) JNO. H. GINDRAT,
Receiver, &c.

(Signed) W. T. WOFFORD,
Receiver, &c.

In presence of—
E. A. O'NEAL.
V. A. GASKELL.
J. W. H. UNDERWOOD.

EXHIBIT C.

CHATTANOOGA, TENN., *June 27th*, 1872.

Genl. WM. T. WOFFORD,
Receiver A. & C. R. R.:

DEAR SIR: In accordance with your request I have the honor to submit the following report of the operations of the machinery department of the Alabama and Chattanooga Railroad for the past
1346 eight months. At the time you assumed control of this portion of the road on the 6th day of November, 1871, there were ten locomotives in the shops at Chattanooga, nine of which were in running order, and one of which needed heavy repairs, and remains in that condition at this time. The passenger and freight cars were in good order, with the exception of two passenger and twelve freight cars, which had become disabled previous to the road ceasing operations in July of same year. In addition to the above would also mention four new box freight-cars, which had never been finished. When the road resumed operations in November, there was started one through passenger-train which required the actual daily use twelve locomotives.

1347 In anticipation of the road doing a heavy business that would justify putting a heavy force of mechanics at work, in order to have the rolling-stock in a proper state of efficiency, we immediately commenced operations with that view, and continued them until 25th of December, of the same year, when, from causes not necessary to mention, most of the rolling-stock was drawn from the northern division, leaving but three engines and the same number of passenger-cars and a very few freight-cars to operate with. We have, up to the last sixty days, *we have* been getting some of the engines and cars back, but as a general thing in a very bad condition and needing extensive and immediate repairs. There have been expended on the engines men-
1348 tioned the following sums, and said engines are now in about as good order as when they were new:

Engine No. 19, from southern division	$975 00
" " 3 " " "	360 00
" " 12 " " "	575 00
" " 16 " " "	243 00
	$2,153 00

The two passenger-cars spoken of were repaired at a cost of $275.00. One passenger-car, No. 9, from southern division, costs, to put in running order, $300.00.

The twelve freight-cars cost, to repair and put in running order, $1,150.00. During the month of March, when there was a heavy snow-storm, the roof of the car-shop fell in, which cost, to repair, $150.00, making a total expenditure of $4,278.00.

The above amount is for extraordinary repairs, and not caused by actual wear.

1349 The ordinary repairs for the past eight months, which includes operating expenses, have been $20,991.45.

In conclusion would say that we have had but one accident during the past eight months, and that was from a rock falling on the track at Morganville, and the damage done was less than one hundred dollars.

The trains are running regularly and promptly. We have a good

class of employees who take especial pains by close attention to their duties to make the management a success. I would also take this opportunity to thank you for the kind interest you took in the employees and laboring-men at the time the road ceased running through, and when there was no money in the treasury you generously supplied them from your own recources.

Respectfully submitted.

H. M. SMITH,
Master Mechanic.

1350 EXHIBIT D.

Statement of receipts and disbursements by W. T. Wofford, receiver A. & C. R. R., from Nov. 14th, 1871, to June 14th, 1872.

RECEIPTS.

November & December, 1871	$2,470 30
January, 1872	7,273 87
February, "	7,250 82
March, "	6,366 62
April, "	17,448 82
May,	17,606 40
June, to 14th	7,547 55
	$65,964 38

DISBURSEMENTS.

Conducting transportation	$35,311 51
Motive power	10,101 48
Maintainance of way	8,094 92
General expenses	8,663 81
	$62,171 72
Balance cash on hand	$3,792 66

Filed July 8th, 1872, at 9.30 a. m.

N. W. TRIMBLE, *Clerk.*

EXHIBIT D.

1351 U.—*Affidavit of E. Philips.*

Circuit court of the United States for the southern district of Alabama, in equity.

SETH ADAMS, FRANCIS LOOMIS, AND JOHN C. Stanton, trustees, &c., complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, as trustees, and others, defendants.

Personally appeared before me, Lemuel T. Downing, by the fifth cir-

cuit court of the United States for the southern district of Georgia, honorable John Erskine presiding, appointed a commissioner of the United States for said district, Etheldred Philips, who, being by me first duly sworn, says that he is twenty-one years old, and re-
1352 sides in the city and county of Tuscaloosa, in the State of Alabama, where he has lived for the last several years; that he is now and was during the entire year 1871 telegraphic operator at the city of Tuscaloosa, whose duty it was to transmit and receive telegraphic dispatches as agent at this said city of Tuscaloosa for the telegraphic company, whose lines of telegraphic wire communicate at the company's office at said city, of which he is and was during said year, 1871, the employed and the only telegraphic operator, receiving and transmitting despatches through the said office; that during the said year 1871, while engaged in said business as telegraphic operator, he received a telegraphic despatch, on the day the same bears date, at his said office in said city, and that he delivered said despatch, on same day re-
1353 ceived, to E. M. Burton, deputy sheriff of said county of Tuscaloosa, and that the annexed paper, marked "Exhibit A," is a genuine and true copy of said despatch and the same identical paper which was by him delivered as aforesaid to said E. M. Burton, deputy sheriff as aforesaid, and said paper is intended by said Philips to be embraced in and to form a part of this affidavit.

E. PHILIPS.

Sworn to and subscribed before me this 5th day of July, 1872; said Etheldred Philips, the affiant, whose genuine signature is to said affidavit, being personally known to me.

(SEAL OF U. S. COMM'R FOR SO. DIST. OF GEORGIA.)

L. T. DOWNING,
U. S. Commissioner,
Southern District of Ga.

1354 EXHIBIT A.

Blank, No. 1.

The Western Union Telegraph Company.

The rules of this company require that all messages received for transmission shall be written on the message-blanks of the company, under and subject to the conditions printed thereon, which conditions have been agreed to by the sender of the following message.

WILLIAM ORTON,
President.
O. H. PALMER,
Secretary, New York.

JOHN VAN HORNE.
Genl. Supt., Louisville, Ky.

[Dated Chattanooga, June 15th, 1871. Received at Tuscaloosa 3.45.]

To SHERIFF:

A mob of men stole a train which had been attached here and was in the custody of the law. Please stop if as stolen property. Get a possee of citizens and hold it for further orders.

37. Paid.

I. S. KENNEDY.

Filed July 9th, 1872.

N. W. TRIMBLE, *Clerk.*

1355 EXHIBIT R.

Objections of the defendant, R. B. Lindsay, to the testimony offered by the complainants.

UNITED STATES OF AMERICA:

In the circuit court of the United States for the southern district of Alabama, at Mobile, in the fifth judicial circuit. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. STANTON, trustees, &c., complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD COMPANY, Lewis Rice, and others, defendants.

The defendant, Robert B. Lindsay, comes now and objects to the testimony offered by the complainants, on the application for the appointment of a receiver and for an injunction, as follows:

1. The said defendant objects to each and every affidavit offered
1356 by the complainants as evidence, for that the said affidavits are not, nor is either one of said affidavits, entitled of the cause in which they are offered as evidence.

2. And the said defendant objects separately to the affidavits of Littleton F. A. Holleman, J. M. Hendrix, Lemuel J. Standifer, Thomas J. Payne, W. P. Lynch, Wallace A. Crawford, Daniel J. Duffy, John Winston, (and eleven others with him,) J. S. Moffet, I. C. Anderson, W. W. Prewitt, and Howard M. Smith, offered as evidence by the complainants, and the package marked "1," on the grounds following:

First. Because the said affidavits are not entitled to this cause.

Second. Because said affidavits were not filed within the time required by the order of this court, on or before the 6th day of July, 1872.

1357 3. And the defendant, Robert B. Lindsay, objects to the said affidavits of Littleton F. A. Holleman, J. M. Hendricks, John Winston, (with eleven others in same,) J. S. Moffett, I. C. Anderson, and W. W. Prewitt on the ground that said affidavits were not made before any officer authorized to take affidavits to be used in this court as evidence.

4. And the said defendant objects to the said affidavits of Lemuel B. Standifer, Thomas H. Payne, W. P. Linch, Wallace A. Crawford, Daniel J. Duffy, John Winston, (and eleven others with him,) J. S. Moffett, I. C. Anderson, W. W. Prewitt, Howard M. Smith, and also to the joint affidavit of Fred. H. Philips and James Nichols, all included in the package of affidavits, marked "1," offered by the complainants,
1358 on the grounds that said affidavits were made before the bill in this case was presented to the judge of this court or filed.

5. And the said defendant objects separately to the affidavit purporting to be made by said John Winston and eleven others, before L. B. Watts, J. P., on the 5th day of February, 1872, and included in said package 1 of affidavits offered by the complainants, on the grounds: 1. That said affidavit is not signed by any one of the persons by whom it purports to be made. 2. It was made before the commencement. 3. It is not entitled of the cause. 4. And it was not filed prior to July 7th, 1872, as required by order of the court.

5. And the said defendant objects separately to each and all of
1359 the affidavits filed with the original bill, and in print, on the grounds

cuit court of the United States for the southern district of Georgia, honorable John Erskine presiding, appointed a commissioner of the United States for said district, Etheldred Philips, who, being by me first duly sworn, says that he is twenty-one years old, and re-
1352 sides in the city and county of Tuscaloosa, in the State of Alabama, where he has lived for the last several years; that he is now and was during the entire year 1871 telegraphic operator at the city of Tuscaloosa, whose duty it was to transmit and receive telegraphic dispatches as agent at this said city of Tuscaloosa for the telegraphic company, whose lines of telegraphic wire communicate at the company's office at said city, of which he is and was during said year, 1871, the employed and the only telegraphic operator, receiving and transmitting despatches through the said office; that during the said year 1871, while engaged in said business as telegraphic operator, he received a telegraphic despatch, on the day the same bears date, at his said office in said city, and that he delivered said despatch, on same day re-
1353 ceived, to E. M. Burton, deputy sheriff of said county of Tuscaloosa, and that the annexed paper, marked "Exhibit A," is a genuine and true copy of said despatch and the same identical paper which was by him delivered as aforesaid to said E. M. Burton, deputy sheriff as aforesaid, and said paper is intended by said Philips to be embraced in and to form a part of this affidavit.

E. PHILIPS.

Sworn to and subscribed before me this 5th day of July, 1872; said Etheldred Philips, the affiant, whose genuine signature is to said affidavit, being personally known to me.

(SEAL OF U. S. COMM'R FOR SO. DIST. OF GEORGIA.)

L. T. DOWNING,
U. S. Commissioner,
Southern District of Ga.

1354 EXHIBIT A.

Blank, No. 1.

The Western Union Telegraph Company.

The rules of this company require that all messages received for transmission shall be written on the message-blanks of the company, under and subject to the conditions printed thereon, which conditions have been agreed to by the sender of the following message.

WILLIAM ORTON,
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JOHN VAN HORNE.
Genl. Supt., Louisville, Ky.

[Dated Chattanooga, June 15th, 1871. Received at Tuscaloosa 3.45.]

To SHERIFF:

A mob of men stole a train which had been attached here and was in the custody of the law. Please stop if as stolen property. Get a possee of citizens and hold it for further orders.

37. Paid.

I. S. KENNEDY.

Filed July 9th, 1872.

N. W. TRIMBLE, *Clerk.*

1355 EXHIBIT R.

Objections of the defendant, R. B. Lindsay, to the testimony offered by the complainants.

UNITED STATES OF AMERICA:

In the circuit court of the United States for the southern district of Alabama, at Mobile, in the fifth judicial circuit. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees, &c., complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, and others, defendants.

The defendant, Robert B. Lindsay, comes now and objects to the testimony offered by the complainants, on the application for the appointment of a receiver and for an injunction, as follows:

1. The said defendant objects to each and every affidavit offered
1356 by the complainants as evidence, for that the said affidavits are not, nor is either one of said affidavits, entitled of the cause in which they are offered as evidence.

2. And the said defendant objects separately to the affidavits of Littleton F. A. Holleman, J. M. Hendrix, Lemuel J. Standifer, Thomas J. Payne, W. P. Lynch, Wallace A. Crawford, Daniel J. Duffy, John Winston, (and eleven others with him,) J. S. Moffet, I. C. Anderson, W. W. Prewitt, and Howard M. Smith, offered as evidence by the complainants, and the package marked "1," on the grounds following:

First. Because the said affidavits are not entitled to this cause.

Second. Because said affidavits were not filed within the time required by the order of this court, on or before the 6th day of July, 1872.

1357 3. And the defendant, Robert B. Lindsay, objects to the said affidavits of Littleton F. A. Holleman, J. M. Hendricks, John Winston, (with eleven others in same,) J. S. Moffett, I. C. Anderson, and W. W. Prewitt on the ground that said affidavits were not made before any officer authorized to take affidavits to be used in this court as evidence.

4. And the said defendant objects to the said affidavits of Lemuel B. Standifer, Thomas H. Payne, W. P. Linch, Wallace A. Crawford, Daniel J. Duffy, John Winston, (and eleven others with him,) J. S. Moffett, I. C. Anderson, W. W. Prewitt, Howard M. Smith, and also to the joint affidavit of Fred. H. Philips and James Nichols, all included in the package of affidavits, marked "1," offered by the complainants,
1358 on the grounds that said affidavits were made before the bill in this case was presented to the judge of this court or filed.

5. And the said defendant objects separately to the affidavit purporting to be made by said John Winston and eleven others, before L. B. Watts, J. P., on the 5th day of February, 1872, and included in said package 1 of affidavits offered by the complainants, on the grounds: 1. That said affidavit is not signed by any one of the persons by whom it purports to be made. 2. It was made before the commencement. 3. It is not entitled of the cause. 4. And it was not filed prior to July 7th, 1872, as required by order of the court.

5. And the said defendant objects separately to each and all of
1359 the affidavits filed with the original bill, and in print, on the grounds

following: 1. Because said affidavits have not, nor has either one of said affidavits, the signature or seal of the officer before whom they purport to have been taken attached to said affidavits, or either of them. 2. Because said affidavits are printed, and there is nothing on their face or the face of either of them to show that they or either of them is genuine. 3. Because said affidavits were made before the bill was filed. 4. Because said affidavits are not entitled of the cause. 5. Because the said affidavits are merely copies and not originals, nor are the originals of which they are copies on file in this cause.

6. And the said defendant objects to the printed pamphlet attached to the bill, and purporting to be the report of the special senate
1360 committee, &c., being received as evidence for the complainants, on the following grounds: 1. Because the matters therein stated are not verified by any legal evidence. 2. It is a mere printed copy of the original. 3. Because it is irrelevant. 4. Because it is not even shown to be a true copy of the original.

7. And the said defendant objects separately to that part of said printed pamphlet which purports to be the testimony of witnesses examined before said special senate committee, on the grounds following: 1. It is a copy and not the original. 2. It is not proved to be a true copy. 3. It is not entitled of this cause, and was not taken in this cause. 4. It is res inter alias acta. 5. It is a copy of the testi-
1361 mony of witnesses examined before a committee of the senate of the State of Alabama. 6. The said testimony of said witnesses was not sworn to before any officer authorized by law to take affidavits or other testimony to be used as evidence in this court.

8. And the said defendant objects to the affidavits offered by the complainants, and marked "Package 2," and to each one of said affidavits separately, on the ground that the said affidavits are not, nor is either one of said affidavits, entitled of this cause.

9. And the said defendant objects to all of the affidavits offered by the complainants in said package 2, (except the affidavits of James H. Van Alstein, J. N. Wyrick, and Edward Carter,) on the ground that they are not marked filed within the time allowed by the order
1362 of this court.

10. And the said defendant objects to all the affidavits in the said package 2, (except the affidavits of H. M. Smith, John J. Rutherford, T. P. McMillin, and Jacob S. McCallum,) because this defendant says that the said affidavits were taken before the commencement of this suit.

11. And the said defendant objects to the affidavits of James W. Oliver, L. L. Thomason, Ellis B. Edwards, James R. Slayton, Z. T. Ruoff, Aaron G. Green, James D. A. Harris, William W. Word, William T. Stewart, and the joint affidavit of Henry N. Snyder and Henry M. Lake, offered by the complainants as evidence, and in package 3, on the following grounds: 1. The said affidavits are not, nor is either of
1363 said affidavits, entitled of this cause. 2. The said affidavits, and each one of them, were made in the month of February, 1872, before the commencement of this suit. 3. The said affidavits are not marked filed and do not appear to have been filed on or before the 6th day of July, 1872.

12. And the said defendant objects to the affidavit of David A. Walker, offered by the complainants and included in said package 3, on the grounds: 1. The said affidavit is not entitled of this cause. 2. The said affidavit was taken in February, 1872, before this suit was commenced.

13. And the said defendant objects to the affidavit of said J. C. Stanton, offered by the complainants and included in said package 3, on the grounds: 1. The said affidavit is not entitled of this cause.
1364 2. The said affidavit does not appear to have been filed on or before the 6th day of July, 1872.

14. And the said defendant objects to the affidavit of R. B. Kyle, offered by complainants, and also in said package 3, on the grounds: 1. The said affidavit is not entitled of this cause. 2. The said affidavit was not made before an officer authorized by law to take affidavits to be used as evidence in this cause.

15. And the said defendant objects to the affidavits offered by the complainants, and included in the package marked "Package 4," on the grounds: 1. The said affidavits are not, nor is either one of said affidavits, entitled of this cause, wherein they are offered as evidence. 2. The said affidavits do not appear to have been taken as evidence
1365 in this cause.

16. And the said defendant objects to the affidavits offered by the complainants, and included in package 5, on the grounds following: 1. The said affidavits are not, nor is either one of said affidavits, entitled of this cause, wherein they are offered as evidence. 2. The said affidavits do not purport to have been taken in this cause.

17. And the said defendant objects to the affidavits offered by the complainants, and included in package 6, on the following grounds: 1. The said affidavits are not entitled of this cause, nor is either of said affidavits entitled of this cause. 2. The said affidavits do not, nor does either one of said affidavits, purport to have been taken in this cause.

1366 18. And the said defendant objects separately to the affidavits of Benjamin F. Paine and Nichols S. Davenport, offered by the complainants, and in said package 6, on the further ground that said affidavits were not made before an officer authorized by law to take affidavits to be used as evidence in this cause.

19. And the said Robert B. Lindsay, defendant, objects to the paper offered by the complainants, and marked "Exhibit O," on the grounds following: First. The said paper purports to be copies of proceedings had in the district court of the United States for the middle district of Alabama, and yet the same is not certified under the seal of that court, nor otherwise proved to be true copies.

1367 20. And the said defendant objects to the package of notices from the first-mortgage bondholders, offered by complainants, because said notices are not shown to be genuine, or in any way proved.

21. And the said defendant objects to the amended bill filed by the complainants on the 6th day of July, 1872, and offered as evidence, on the grounds: 1. The said amendment was filed without any leave of the court. 2. The said amendment, though marked filed by the clerk, is not properly on file in the cause.

WATTS & TROY,
STONE & CLOPTON.
PETTUS & DAWSON,
Solrs. for Robert B. Lindsay, Defendant.

Filed July 9th, A. D. 1872.

N. W. TRIMBLE, *Clerk.*

1368 *Notes of evidence, under order of June 20, 1872.*

UNITED STATES OF AMERICA:

In the circuit court of the United States for the southern district, at Mobile, in the fifth judicial circuit. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees, &c., complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippett, D. N. Stanton, et als., defendants.

Under and by virtue of an order made by the honorable William B. Woods, judge of the circuit court of the United States for the fifth judicial circuit and southern district of Alabama, on the 20th day o
1369 June, A. D., 1872, directing the clerk of the court to take and make a note in writing of the evidence, objections, &c., of complainants and respondents filed in said cause, I have this 10th day of July, A. D. 1872, noted the same as follows:

Complainants offer the following evidence, &c.:

First. Original bill and printed affidavits attached. Exhibits 1, 2, 3, and 4 to original bill, not attached.

Second. Amended bill with Exhibit 20 attached as an exhibit. Exhibit O not attached to amended bill.

1370 Third. Package of notices from holders of first-mortgage bonds to the Alabama and Chattanooga Railroad Company, demanding difference between currency and gold, and recapitulation of the same.

Fourth. Notices of sale under bankrupt proceedings, report of register and assignees as to sale, and how the road is to be paid for.

Fifth. Six (6) packages of affidavits filed and taken by leave of Judge Woods at the hearing on the 20th of June, 1872. These packages are marked "1, 2, 3, 4, 5," and "6."

Affidavit of J. Q. Smith, filed on the 9th of June, 1872, as
1371 to printed affidavits attached to original bill, was offered as evidence by the complainants, but was objected to by the defendants John F. Bailey, J. H. Gindrat, and Samuel B. Jones, on the ground that said affidavit was not filed on or before the 6th day of July, 1872, and was rejected for that cause; but said affidavit is herewith forwarded.

To the evidence and affidavits offered by the complainants, the defendants John F. Bailey, John H. Gindrat, and Samuel B. Jones made objections in writing; which objections were filed in the cause, and are herewith forwarded and marked "Exhibit P."

1372 And to the evidence and affidavits offered by the complainants, the defendants Robert B. Lindsay, made objections in writing, which objections were filed in the cause and are herewith forwarded and marked "Exhibit R."

To the objections and exceptions filed and forwarded herewith complainants file and forward herewith their reply to the same, together with objections and exceptions to the evidence and papers filed by said defendants, marked "Exhibit Q."

The defendants John F. Bailey, John H. Gindrat, and Samuel B. Jones put in evidence the answer of said John H. Gindrat, filed as an

affidavit, and the affidavits of William J. Pierce, Franklin R.
1373 White, Horace Harding, J. H. Riffle, R. M. Hook, Charles H. Mills, James M. Lackey, Thomas Webster, James C. Wofford, C. Smallwood, J. H. Sharp, W. F. Karsner, Erastus V. Johnson, Hawkins F. Price, G. M. King, Archibald G. Sheats, J. G. Southard, E. V. Gregory, L. I. Standifer, Samuel Orr, N. Page, S. A. Key, T. Richmond, S. B. Echols, Thomas Edwards, Hugh Kirkman, H. F. Wheeler, John F. Bailey, J. McKee Gould, Lewis J. Wagner, C. H. Mills, Thomas Webster and C. H. Mills, (joint affidavit,) Robert B. Lindsay, William C. Hodges, J. M. Burton, Thomas Webster, James H. Hemphill, Thomas G. Garnett, V. S. Murphy, E. Farrand, R. W. Healey, Robert C. Randolph, Horace Harding, William W. Mitchell, Harley Homan, F. P.
1374 Corby, John H. Busby, T. George Garnett, Henry F. Wheeler, Reuben B. Thorn, J. H. Price, S. B. Lowe, E. M. Hurnston, E. H. Grandin, James H. Simonds, and A. G. Horn; which affidavits had been regularly filed in the cause and are herewith forwarded.

And the said defendants John F. Bailey, John H. Gindrat, and Samuel B. Jones also put in evidence a certified transcript from the district court of the United States for the middle district of Alabama, which is herewith forwarded and marked A A.

And the said defendants John F. Bailey, John H. Gindrat, and Samuel B. Jones also offered as evidence the affidavits of O. H. P. Rogan, H. M. Smith, and Etheldred Philips, which were filed
1375 after the 6th day of July, A. D. 1872. The complainants objected to said affidavits because they were not filed on or before the 6th day of July, A. D. 1872, and the said affidavits were excluded, but the said affidavits are herewith forwarded and respectively marked S, T, and U.

And the said defendant Robert B. Lindsay put in evidence his answer in this cause, which was filed on the 6th day of July, A. D. 1872, and is herewith forwarded.

And I, N. W. Trimble, clerk of the circuit court of the United States for the fifth judicial circuit and southern district of Alabama, at
1376 Mobile, do also herewith forward to the honorable W. B. Woods, judge of the circuit court of the United States for the fifth judicial circuit and southern district of Alabama, all the affidavits and other evidence offered by either of the parties in said cause and above noted, and all the objections made thereto and above noted, together with all the papers and pleadings in the cause.

In witness whereof I hereunto set my hand and cause the seal of the circuit court to be affixed this 10th day of July, A. D. 1872.

[SEAL.] N. W. TRIMBLE,
Clerk U. S. Cir. Court, Sou. Dist. Ala.

Filed July 10th, 1872.

N. W. TRIMBLE, *Clerk.*

1377 *Subpœna.*

UNITED STATES OF AMERICA:

Circuit court of the United States for the fifth judicial circuit and southern district of Alabama.

The President of the United States to the marshal of said district, greeting:

You are hereby commanded to summon the Mobile and Ohio Railroad Company and Charles Walsh, who are citizens of the State of Alabama,

to appear at rules, in the office of the clerk of said court, on the first Monday of September, 1872, to demur, to plead, or answer a certain petition of Seth Adams, Francis B. Loomis, and John C. Stanton,
1378 trustees, &c., against the Alabama and Chattanooga Railroad Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton and others, filed in our said court on the 30th day of May, 1872.

Herein fail not, and have you then and there this subpœna with your doings thereon.

Witness the honorable Salmon P. Chase, Chief-Justice of the Supreme Court of the United States, and the seal of said court, this 2nd Monday of April, A. D. 1872.

Issued the 25' day of July, A. D. 1872.

Attest:

SEAL OF U. S. CIR. COURT SO. DIST. OF ALA.

N. W. TRIMBLE,
Clerk U. S. Cir. Court 5th Circuit and Southern District of Alabama.

1379 Each of said defendants are hereby required to enter his appearance in said suit in the clerk's office on or before the first Monday of September, 1872, or the petition may be taken pro confesso.

N. W. TRIMBLE, *Clerk.*

Marshal's return.

Received M. O., July 25th, 1872, and executed same day by personally serving copy of the within subpœna on Abraham Murdock, president Mobile and Ohio Railroad. Charles Walsh not found.

Returned October 5th, 1872.

R. W. HEALY,
U. S. Marshal.
By GEO. COTTIN,
Deputy.

1380 *Subpœna.*

UNITED STATES OF AMERICA:

Circuit court of the United States for the fifth judicial circuit and southern district of Alabama.

The President of the United States to the marshal of said district, greeting:

You are hereby commanded to summon J. A. Caldwell and W. T. Wofford, who are citizens of the State of Tennessee, to appear at rules in the office of the clerk of said court, on the first Monday of September, 1872, to demur, plead to, or answer a certain petition of Seth Adams, Francis B. Loomis, and John C. Stanton, trustees, &c.,
1381 against the Alabama and Chattanooga Railroad Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton and others, filed in our said court on the 30th day of May, 1872.

Herein fail not, and have you then and there this subpœna, with your doings thereon.

Witness the honorable Salmon P. Chase, Chief-Justice of the Supreme Court of the United States, and the seal of said court, this 2nd Monday of April, A. D. 1872.

Issued the 25th day of July, A. D. 1872.

Attest:

SEAL OF U. S. CIR. C'RT SO. DIST. OF ALA.

N. W. TRIMBLE,
Clerk U. S. Circuit Court 5th Cir't & Sou. Dist. of Alabama.

1382 Each of said defendants are hereby notified to enter his appearance in said suit in the clerk's office on or before the first Monday of September, 1872, or the petition may be taken pro confesso.

N. W. TRIMBLE, *Clerk.*

Marshal's return.

The parties defendant could not be found in my district.

R. W. HEALY,
U. S. Marshal Southern District of Alabama.

JULY 30th, 1872.

1383 *Subpœna.*

UNITED STATES OF AMERICA:

Circuit court of the United States for the fifth judicial circuit and southern district of Alabama.

The President of the United States to the marshal of said district, greeting:

You are hereby commanded to summon Robert B. Lindsay, Samuel B. Jones, John F. Bailey, and John H. Gindrat, who are citizens of the State of Alabama, to appear at rules, in the office of the clerk of said court, on the first Monday of September, 1872, to demur, plead to, or answer a certain petition of Seth Adams, Francis B. Loomis, and
1384 John C. Stanton, trustees, &c., against the Alabama and Chattanooga Railroad Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton and others, filed in our said court on the 30th day of May, 1872.

Herein fail not, and have you then and there this subpœna, with your doings thereon.

Witness the honorable Salmon P. Chase, Chief-Justice of the Supreme Court of the United States, and the seal of said court, this 2nd Monday of April, A. D. 1872.

Issued the 25th day of July, A. D. 1872.

Attest:

SEAL OF U. S. CIR. COURT SO. DIST. OF ALA.

N. W. TRIMBLE,
Clerk U. S. Cir. Court 5th Cir't & So. Dist. of Ala.

1385 Each of said defendants are hereby notified to enter his appearance in said suit in the clerk's office on or before the first Monday of September, 1872, or the petition may be taken pro confesso.

N. W. TRIMBLE, *Clerk.*

Marshal's return.

Served a copy of the within summons on all the parties therein named, except Samuel B. Jones, who could not be found, this 20th day of November, 1872.

R. W. HEALY,
U. S. Marshal.
By E. H. OLCOTT,
Spec. Deputy.

1386 *Subpœna.*

UNITED STATES OF AMERICA:
Circuit court of the United States for the southern district of Alabama.

The President of the United States to the marshal of said district, greeting:

You are hereby commanded to summon J. A. Caldwell, W. T. Wofford, and Samuel B. Jones, who are citizens of the State of Tennessee, to appear at rules, in the office of the clerk of said court, on the first Monday of September, 1872, to demur, plead to, or answer a certain petition of Seth Adams, Francis B. Loomis, and John C. Stanton,
1387 trustees, &c., against the Alabama and Chattanooga Railroad Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton and others, filed in our said court on the 30th day of May, 1872.

Herein fail not, and have you then and there this subpœna, with your doings thereon.

Witness the honorable Salmon P. Chase, Chief-Justice of the Supreme Court of the United States, and the seal of said court, this 2nd Monday of April, A. D. 1872.

Issued the 6th day of August, A. D. 1872.

{ SEAL OF U. S. CIR. COURT SO. DIST. OF ALA. } N. W. TRIMBLE, *Clerk U. S. Cir. Ct. Sou. Dist. Alabama.*

1388 Each of said defendants are hereby notified to enter his appearance in said suit in the clerk's office on or before the first Monday of September, 1872, or the petition may be taken pro confesso.

N. W. TRIMBLE, *Clerk.*

Return.

Executed by handing a copy of this notice *on* W. T. Wofford on this the 20th day of August, 1872, and by handing a copy to J. A. Caldwell, August the 13th, 1872.

A. H. GREEN.

UNITED STATES OF AMERICA,
Eastern District of Tennessee:

1389 Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States of America for the eastern district of Tennessee, A. H Green, who, being duly sworn, says that he executed the within subpœna by handing a true copy of the same to J. A. Caldwell and W. T. Wofford at the time stated in the return to this subpœna.

A. H. GREEN.

Sworn to and subscribed before me this 20th day of August, 1872.

[SEAL.] J. M. JOHNSON,
U. S. Commissioner Dist. East Tennessee.

1390 CHATTANOOGA, TENN., *August 20th*, 1872.

N. W. TRIMBLE, Esq.,
Clerk U. S. Courts, Mobile, Ala.:

SIR: By direction of honorable J. Q. Smith, I enclose with this original subpœna, after having served a copy each on J. A. Caldwell and W. T.

Wofford, and making affidavit to same. We have no United States marshal in this city, therefore I served each notice myself, and certified to them myself before a United States commissioner.

Yours, very respectfully,

A. H. GREEN.

1391 *Affidavit of Jno. H. Gindrat.*

STATE OF NEW YORK,
In the Southern District of New York:

Personally appeared before me, a commissioner duly appointed by the United States district court for said southern district of New York, John H. Gindrat, who, being duly sworn, deposes and says that for the greater portion of the last twelve months he has been in possession of most the railroad of the Alabama and Chattanooga Railroad Company; that he first took possession of same as agent of the State of Alabama, appointed by the governor of said State under its statutes, and afterwards
1392 continued in such possession as custodian in bankruptcy and as one of the assignees in bankruptcy under certain proceedings in bankruptcy instituted by William A. C. Jones in the district court of the United States for the middle district of Alabama.

Affiant states that he has had opportunities for becoming familiar, and is familiar, with the condition of said railroad and the property incident to its operation and management.

Affiant states that very material additions will have to be made to the present supply of equipments on said railroad, and expensive repairs made on its road-bed, track, water-stations, depots, &c., be-
1393 fore the said road can be operated successfully or profitably. That the present supply of equipments is wholly inadequate to the demands of the road, and insufficient to transport the freight and passengers which, on the opening of said railroad to the public, will be offered for transportation.

Affiant further states, on information, that recently severe floods and freshets along the line of said road have washed away material portions of its road-bed and some of its bridges, so that for a distance of nearly fifty-six miles it is now incapable of being operated.

Affiant states, on information and belief, that in order to equip
1394 and put in successful operation said railroad, and to pay off a lien of, say, one million of dollars which affiant is informed exists in favor of the State of Alabama, and in order to protect and secure the first-mortgage bondholders, at least two million of dollars will be required.

Affiant avers, from his knowledge of the present condition of said railroad throughout its entire length, and its equipments, he believes that the immediate raising and expenditure of said sum is an absolute necessity to the preservation of said trust estate. And further affiant saith not.

JOHN H. GINDRAT.

Sworn to before me this 19th day of August, 1872.
[SEAL.] JOHN A. SHIELDS,
U. S. Commissioner S. Dist. of N. Y.

To be filed.
(S'd) J. P. BRADLEY, *Justice.*

Filed Sept. 21st, 1872, at 12.25 p. m.

N. W. TRIMBLE, *Clerk.*

1395 *Amendment to original bill.*

In the circuit court of the United States for the State of Alabama, one of the districts of the fifth judicial circuit of the United States, at Mobile, Alabama. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Alabama and Chattanooga Railroad Company, complainants,

vs.

THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, as trustees for the holders of said railroad company, et als., defendants.

1396 Bill filed May 30th, 1872, in said circuit court of the United States, at Mobile, Alabama, with amendments.

The complainants in the above-entitled cause, now pending in the circuit court of the United States, at Mobile, hereby withdraw each and every allegation contained in the original bill in said cause, or any amendment thereof which imputes to any of the defendants therein any impure or improper motive, or assails in any manner the integrity or character of any of the defendants, or which assails or questions the validity of the proceedings in bankruptcy referred to in said bill and amendments, or the sale made to the State of Alabama in the course of said proceedings in bankruptcy, or which asserts the validity of any indorsement by said State of Alabama of any of said first-mortgage bonds other than of the four millions seven hundred and twenty thousand dollars of said first-mortgage bonds upon which the governor of Alabama has heretofore paid interest. This withdrawal is here now

1397 delivered to the Hon. Joseph P. Bradley, one of the justices of the Supreme Court of the United States, before whom an application for receiver and injunction under said bill and amendments as filed at Mobile is pending, and is, with the other papers in said cause, to be filed in said cause, in said circuit court of the United States at Mobile.

And nothing alleged in said bill, or any amendment thereof, or in any of the affidavits in said cause, is to be taken as admitted by any defendant therein, except such matter or thing as is expressly or clearly admitted by such defendant himself.

August 23rd, 1872.

(S'gn'd) J. Q. SMITH,
By GILLETTE & CROSBY, and
GILLETTE & CROSBY.
Solicitors for Complainants.

Filed and presented Aug. 24th, 1872.

(S'gn'd) J. P. B., *Justice.*

1398 *Letter from H. W. Paine to J. C. Stanton.*

BOSTON, *August* 22, 1872.

DEAR SIR: Should Mr. Justice Bradley conclude to appoint two receivers of your Alabama railroad, and one of them a resident of this

State, I know of no man more fit than Mr. Lewis Rice, of this city. He is a man of intelligence and the strictest propiby.

Very truly yours,

H. W. PAINE.

Mr. J. C. STANTON.

To be filed.

J. P. BRADLEY, *Justice.*

Received and filed September 21, 1872.

N. W. TRIMBLE, *Clerk.*

1399 *Order of J. P. Bradley.*

Circuit court of the United States for the district of Alabama, at Mobile, in the 5th judicial circuit of the United States. In equity.

BETWEEN SETH ADAMS, FRANCIS B. LOOMIS, and John C. Stanton, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company, complainants,
and
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, trustees, &c., and others, defendants.
} On bill for receiver, &c.

On the 20th day of June, 1872, the motion for appointment of re-
1400 ceivers and for injunction was duly submitted to said circuit court of the United States at Mobile, in open court, and held for order and decree in vacation.

It appears by the affidavits and proofs duly submitted and filed in this cause, that the property in question, to wit, the railroad and connecting works, and other property, late of the Alabama and Chattanooga Railroad Company, which are embraced in and covered by the mortgage known as the first mortgage of said company, are rapidly deteriorating in value and being wasted, scattered, and destroyed, whereby the security of the first-mortgage bondholders, and the interest of all other persons concerned in said property, are subject to great hazard,
1401 and danger of entire sacrifice.

And whereas the governor of Alabama, on behalf of said State, has purchased the said property at the sale thereof by the assignees in bankruptcy of the said company, for the purpose of protecting the interests of said State; as guarantor or endorser of four millions seven hundred and twenty thousand dollars of said first-mortgage bonds, the endorsements of which have heretofore been recognized by the governor of Alabama as valid, or upon which he has heretofore paid interest; but it appears that the said State, as well as the said company, has failed to pay the full amount of interest due on said bonds;

1402 And whereas in the present condition of said property it is impossible, without great sacrifice, to dispose of the same in any manner;

And whereas it has been proposed and agreed by the parties interested that all further opposition to the proceedings in bankruptcy against said company in the district court for the middle district of Ala-

bama shall be withdrawn, and that the said proceedings shall be affirmed, and that all other proceedings for the appointment of receivers in the several State and district courts shall be discontinued, so that the proceedings in this suit shall have full effect and operation, without undue embarrassment, and that a receiver or receivers shall be appointed
1403 in this cause, to take charge of said property, and put the same into proper condition for its preservation and disposition, for the mutual benefit of all parties interested therein:

And whereas, in view of all the evidence and admissions of the parties, the court is satisfied that a receiver ought to be appointed to take charge of the entire property and manage the same, and to put the same in order and repair, to prevent the entire destruction thereof;

And whereas the complainants, in pursuance of said undertaking and agreement between the parties, have presented, and requested to be filed, a supplemental statement, among other things, withdraw-
1404 ing certain statements made in the original bill:

It is therefore ordered that the said supplemental statement be annexed to the original bill filed in this cause as an amendment thereof.

It is further ordered that Lewis Rice, of Boston, Massachusetts, and *and* William J. Haralson, of DeKalb County, Alabama, be appointed receivers in this cause, to take possession of, sue for, recover, and receive all the railroad and other property, and appurtenances of every kind and description whatsoever, formerly or now belonging to the Alabama and Chattanooga Railroad Company, which are embraced in, or in
1405 any way reached or covered by, the said first mortgage given by said company, as fully set forth in and annexed to said bill of complaint, and to sue for and recover all damages done to or for taking of any part of said property by any person or persons other than the said governor of Alabama, and any officer or agent of said State, who may have acted by or under his authority, such suit or suits to be brought in any court having jurisdiction thereof, and said receivers to have power to employ counsel at reasonable and proper compensation in any matter connected with the discharge of their duties as receivers.

1406 It is further ordered that the said receivers be authorized to put said railroad and other property in repair, and to complete any incompleted portions thereof, and to procure rolling-stock, machinery, and other necessary things for operating the same, and to operate the same to the best advantage, so as to prevent the said property from further deteriorating, and to save and preserve the same for the benefit and interest of the said first-mortgage bondholders and all others having an interest therein.

It is further ordered that all monies which may be received by said receivers by loan, or which may be advanced by them, for the
1407 purposes aforesaid, not exceeding the sum of one million two hundred thousand dollars, shall be a first lien, prior to all others, on the said railroad and other property and to be paid before the said first-mortgage bonds out of the proceeds of said property.

And it is further ordered that the said receivers shall issue certificates for the monies which they may thus raise by loan for the purposes aforesaid, and that the said loan shall and may be made on such terms as the receivers may deem expedient, provided that said certificates shall not be disposed of for less than ninety cents to the dollar of their
1408 face; and also provided that interest thereon shall not be allowed at a greater rate than eight per cent. per annum, payable half-yearly, and such certificates shall not be issued until the same

shall be countersigned by a majority of the trustees for said first-mortgage bondholders; without which countersigning they shall not be entitled to the lien and priority aforesaid.

It is further ordered, that the principal of any monies so to be loaned to the said receivers shall be payable at the expiration of ten years from the first day of September next, at some convenient place to be named therein.

1409 It is further ordered, that if the State of Alabama shall at any time pending said receivership sell the said railroad and other property to any person or persons, and if the full amount of interest that may be due and in arrear upon the said first-mortgage bonds hereinbefore specified shall be paid to the holders thereof, or into this court for their use, the said receivers, having duly performed the objects of their trust as before stated, shall, at the request of said State, deliver the said railroad and other property to such purchaser or purchasers, to

1410 be subject, however, to the said lien for the payment of said monies to be borrowed as aforesaid by said receivers, and all interest to accrue thereon, and to the lien of said first mortage and the bonds secured thereby, which are hereinbefore specified, and of the State of Alabama, as guarantor or endorser thereof, according to the terms of said guaranty or endorsement and the laws by which the same was authorized to be made, it being expressly understood that this order is not intended to interfere with or disturb the relations between the said State and the said first-mortgage bondholders in any manner in respect to said railroad and other property; provided, however, if the

1411 State of Alabama shall be able to sell the said property to any person or persons willing to discharge all arrears of interest on said first-mortgage bonds hereinbefore specified, and to take the said property without further outlay for repairs thereon, then the said receivers shall forthwith cease any further outlay and expense for that purpose, and shall, at the request of said State, deliver said property to such purchaser or purchasers; provided further, that if such purchaser or purchasers from the State shall fail to pay any instalment of interest at the maturity thereof on said four million seven hundred and twenty

1412 thousand dollars of said first-mortgage bonds hereinbefore specified, hereafter falling due, then and in that case the said State of Alabama shall have the right to proceed for the collection of such instalment or instalments so unpaid, precisely as provided by the statute law of said State in such case of the non-payment of such instalment of interest.

It is further ordered that the said receivers, with any funds in their hands as such receivers, whether raised by loan, as aforesaid, or derived from receipts accruing from said property, shall have authority to pay such sums as may be necessary to clear and perfect the title to

1413 the right of way, or to any property formerly claimed by said railroad company and now claimed to be embraced in said first mortgage, and to pay reasonable compensation to the solicitors and counsel of the complainants for their professional services in this cause, and reasonable compensation to such solicitors and attorneys as the receivers may properly employ in any matter connected with the discharge of their duties as receivers; also, to pay such legal and necessary expenses heretofore properly and lawfully incurred under authority of any court in relation to said property yet remaining unpaid as may

1414 be audited and allowed by a special master of this court to be appointed for that purpose, and approved and confirmed by the court at a regular term thereof.

It is further ordered that any funds raised by the said receivers by loan, as aforesaid, or received by them from any other source, as such receivers, which may not be employed or required for the purposes before mentioned, or allowed to them by the court for their services as such receivers, shall be paid by them into this court for the use of the said first-mortgage bondholders, as their interest or principal shall become due.

It is further ordered that the said receivers do report, at each
1415 regular term of the court, all their acts and doings in the premises, as well as the condition and prospects of the property in their charge.

It is further ordered that the said receivers, before entering upon the duties of their appointment, do take an oath before some judge or commissioner of this court for the faithful performance of their duties as such receivers, and give bond to the clerk of this court, and his successors in office, in the penal sum of two hundred thousand dollars, with good and sufficient security, conditioned that they shall faithfully discharge their duties as such receivers, and duly account for all
1416 soms of money that they or either of them may raise or receive by virtue of their receivership, and shall obey and faithfully execute this and all other orders of the court in this cause in relation to their trust; and said bond, when approved by a judge of this court, shall be filed in the office of the clerk.

It is further ordered that if the said receivers shall at any one time have in their possession or control as such receivers any amount of money exceeding the sum of two hundred thousand dollars, they shall give a further bond to the clerk to the amount of such excess, with condition faithfully to dispose of and account for and pay the
1417 same according to the requirements of their appointment and trust.

It is further ordered that an injunction do issue against the defendants and all persons claiming or acting by, through, or under them, or either of them, and all other persons, to restrain them from interfering with the said receivers in taking possession of and managing said railroad and property.

August 26th, 1872.

JOSEPH P. BRADLEY,
Associate Justice Supreme Court United States
1418 *and Judge of said Circuit Court.*

Let the foregoing order be entered by the clerk in the minutes of the court as of this date, August 26th, 1872.

JOSEPH P. BRADLEY,
Associate Justice S. C.

Received and filed September 21st, A. D. 1872, at 12.25 p. m.
N. W. TRIMBLE, *Clerk.*

1419 *Receivers' bond.*

Know all men by these presents that we, Lewis Rice, of Boston, Massachusetts, and William J. Haralson, of De Kalb County, Alabama, as principals, in the penal sum of two hundred thousand dollars; and we, as sureties for said principals in the sums opposite our respective names, amounting in the aggregate to the said sum of two hundred thousand dollars, William F. Drake, of the city of New York, in the

sum of fifty thousand dollars; Daniel N. Stanton, of said city, in the sum of fifty thousand dollars; John C. Stanton, of Newton, Massachusetts, in the sum of fifty thousand dollars; Sylvester Stevens, of Concord, New Hampshire, in the sum of fifteen thousand dollars;
1420 W. H. H. Furber, of said Boston, in the sum of twelve thousand dollars; Ransom F. Evans, of said Boston, in the sum of twelve thousand dollars, and Increase E. Noyes, of Boston, in the sum of twelve thousand dollars, are jointly and severally held and firmly bound unto N. W. Trimble, esquire, the clerk of the circuit court of the United States, in the fifth (5th) judicial circuit for the district of Alabama, at Mobile, and his successors in office; which sum we, as principals and securities as above set forth, jointly and severally promise to pay to the clerk of said circuit court, and his successors in office, on demand, always provided that these presents are upon condition,
1421 that, whereas the said Lewis Rice and William J. Haralson, under and by virtue of an order made by the honorable Joseph P. Bradley, one of the justices of the Supreme Court of the United States, and judge of said circuit court, on the 26th day of August, 1872, in a cause pending in the circuit court of the United States, for the district of Alabama, at Mobile, in the fifth (5th) judicial circuit, in which Seth Adams et als., trustees, &c., are complainants, and the Alabama and Chattanooga Railroad Company et al. are defendants, were duly appointed receivers in said cause, to take possession of, sue for, recover, and receive all the railroad and other property and appurtenances
1422 of every kind and description whatsoever, formerly or now belonging to the Alabama and Chattanooga Railroad Company, which are embraced in, or in any way reached or covered by, the first mortgage given by said company; said receivers being also authorized to put said railroad and other property in repair, and to complete any incompleted portions thereof, and to procure rolling-stock, machinery, and other necessary things for operating the same, and to that end to raise money by loan, not exceeding the sum of one million two hundred thousand dollars, issuing certificates therefor, as in said order provided.

Now, then, if the said receivers shall faithfully discharge their du-
1423 ties as such receivers, as in said order required, and shall duly account for all sums of money that they or either of them may raise or receive by virtue of their receivership, and shall obey and faithfully execute the said order and all other orders of the court, in said cause, in relation to their trust, then, and in such case, these presents are to be void and of no effect; otherwise the same shall be and remain in full force, power, and virtue in the law.

In witness whereof the said parties have hereunto set their hands and affixed their seals on this thirty-first day of August, A. D. 1872.

LEWIS RICE. [SEAL.]
WM. J. HARALSON. [SEAL.]

Executed in presence of—
HIRAM B. CROSBY.

1424 (S'g'd)

WILLIAM F. DRAKE.	[SEAL.]	$50,000.
JOHN C. STANTON.	[SEAL.]	$50,000.
DANIEL N. STANTON.	[SEAL.]	$50,000.
SYLVESTER STEVENS.	[SEAL.]	$15,000.
W. H. H. FURBER.	[SEAL.]	$12,000.
RANSOM F. EVANS.	[SEAL.]	$12,000.
INCREASE E. NOYES.	[SEAL.]	$12,000.

Executed in presence of—
C. W. TUTTLE.

UNITED STATES OF AMERICA,
District of Massachusetts:

BOSTON, *September* 5, 1872.

Then personally appeared the within-named Lewis Rice and William I. Haralson, the receivers within named, and made oath that they
1425 would faithfully perform the duties as such receivers pursuant to the order of the honorable Joseph P. Bradley, made August 26th, 1872, in the suit within named.

Before me.

(S'g'd) JOSEPH P. BRADLEY,
Associate Justice United States Supreme Court and Judge of the United States Circuit Court Southern District of Alabama.

Circuit court of the United States for the district of Alabama, at Mobile, in the fifth judicial circuit of the United States. In equity.

1426 BETWEEN SETH ADAMS, FRANCIS B. Loomis, and John C. Stanton, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company, complainants,
and
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippett, and Daniel N. Stanton, trustees, &c., and others, defendants.

UNITED STATES OF AMERICA,
District of Massachusetts:

BOSTON, *August* 31, 1872.

Personally appeared before the undersigned, a commissioner of the circuit court of the United States within and for the district of Massachusetts, William F. Drake, John C. Stanton, Daniel N.
1427 Stanton, Sylvester Stevens, W. H. H. Furber, Ransom F. Evans, and Increase E. Noyes, sureties named in a bond executed this day by Lewis Rice, of Boston, and William J. Haralson, of De Kalb County, Alabama, as principals, and being duly sworn, did say, in answer to questions propounded to each by the undersigned, as follows:

The said Daniel N. Stanton says he resides in New York, is a railroad contractor and owner, owns real estate, and is worth fifty thousand dollars over and above his debts and liabilities.

William F. Drake says he resides in New York, is a banker, owns real estate, and is worth fifty (50) thousand dollars over and above his debts and liabilities.

1428 John C. Stanton says he resides in West Newton, Massachusetts; is a railroad contractor and owner, owns real estate, and is worth three hundred thousand dollars over and above his debts.

Sylvester Stevens says he resides in Concord, New Hampshire: is a merchant, and is worth fifteen thousand dollars over and above his debts and liabilities; owns real estate.

William H. H. Furber says he resides in Boston, Massachusetts; is a trader, of the firm of Sands. Furber and Company, of Boston; owns real estate, and is worth twenty-five thousand dollars over and above his debts and liabilities.

Ransom F. Evans says he lives in Boston, Massachusetts; is
1429 of the firm of Sands, Furber and Company; owns real estate, and is worth twelve thousand dollars over and above his debts and liabilities.

Increase E. Noyes says he resides in Boston; is a provision dealer, owns real estate, and is worth twelve thousand dollars over and above his debts and liabilities.

In witness whereof I have hereto set my hand and seal this second day of September, A. D. 1872.

C. W. TUTTLE,
Commissioner U. S. Circuit Court for the District of Massachusetts.

(Endorsed:)
The within bond is approved September 5th, 1872. Let it be filed.
J. P. BRADLEY,
Associate Justice Sup. Crt U. S.

Received and filed September 21st, 1872, at 12.25 p. m.
N. W. TRIMBLE, *Clerk.*

1430 *Injunctions.*

UNITED STATES OF AMERICA:

Circuit court of the United States for the southern district of Alabama.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. STANTON, trustees for the holders of the bonds secured by the first mortgage of the Alabama and Chattanooga Railway Company, complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chattanooga Railway Company. } Injunction.

The President of the United States to the marshal of said district, or to either of his deputies, greeting:

You are hereby commanded to make known to the Alabama and Chattanooga Railroad Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, as trustees, &c., to Robert B. Lindsay and the said John
1431 H. Gindrat, claiming to act for the State of Alabama in the control of said road; the said John H. Gindrat, as receiver of the chancery court at Chattanooga, in the State of Tennessee; John H. Gindrat, John F. Bailey, and Samuel B. Jones, as assignees of the bankrupt-court, in the middle district of Alabama, and all persons claiming or acting by, through, or under them, or either of them, and all other persons, that under and by virtue of an order made by the Hon. Joseph P. Bradley, associate justice of the Supreme Court of the United States and judge of said circuit court, on the application of the complainants on a bill filed by them in said court, on the equity side thereof, wherein Seth Adams, Francis B. Loomis, and John C. Stanton, trustees, &c., are complainants, and the Alabama and Chattanooga Railroad Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, trustees, &c., are de-

fendants, they are enjoined and restrained from interfering with the said receivers in taking possession of and managing said railroad and property.

Herein fail not, and have this writ, with your endorsement
1432 thereon of how you have executed the same, at the next term of said circuit court, to be held on the fourth Monday in December, 1872.

Witness Hon. Salmon P. Chase, Chief-Justice of the Supreme Court of the United States, and the seal of said circuit court, this 2nd Monday of April. A. D. 1872.

Issued this 26th day of September, A. D. 1872.

Attest:

[SEAL.] (S'gn'd) N. W. TRIMBLE,
Clerk Circuit Court United States, Southern District Ala.

Marshal's return.

Served copy of the within writ on J. F. Bailey and J. H. Gindrat, R. B. Lindsay and D. P. Lewis, successor to R. B. Lindsay as governor of the State of Alabama, this 27th day of November, 1872.

(S'gn'd) R. W. HEALY,
United States Marshal.

1433 UNITED STATES OF AMERICA:

Circuit court of the United States for the southern district of Alabama.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. STANTON, trustees for the holders of the bonds secured by the first mortgage of the Alabama and Chattanooga Railroad Company, complainants,	
vs.	
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chattanooga Railroad Company.	Injunction.

The President of the United States to the marshal of said district, or to either of his deputies, greeting:

You are hereby commanded to make known to the Alabama and Chattanooga Railroad Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, as trustees, &c., and to Robert B. Lindsay and said John
1434 H. Gindrat, claiming to act for the State of Alabama in the control of said road, the said John H. Gindrat, as receiver of the chancery court at Chattanooga, in the State of Tennessee, John H. Gindrat, John F. Bailey, and Samuel B. Jones, as assignees of the bankrupt court in the middle district of Alabama, and all persons claiming or acting by, through, or under them, or either of them, and all other persons, that under and by virtue of an order made by the Hon. Joseph P. Bradley, associate justice of the Supreme Court of the United States, and judge of said circuit court, on the equity side thereof, wherein Seth Adams, Francis B. Loomis, and John C. Stanton, trustees, &c., are

complainants, and the Alabama and Chattanooga Railroad Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, trustees, &c., are defendants, they are enjoined and restrained from interfering with the said receivers in taking possession of and managing said railroad and property.

Herein fail not, and have this writ, with your endorsement
1435 thereon of how you have executed the same, at the next term of said circuit court, to be held on the fourth Monday of December, A. D. 1872.

Witness Hon. Salmon P. Chase, Chief-Justice of the Supreme Court of the United States, and the seal of said circuit court, this 2nd Monday of April, A. D. 1872.

Issued this 26th day of September, A. D. 1872.

Attest:

[SEAL.]

N. W. TRIMBLE,
Clerk Circuit Court U. S., Sou. Dist. Ala.

Marshal's return.

Executed by handing a copy of this injunction-notice on Robert B. Lindsay this the 7th day of December, 1872.

Z. E. THOMAS,
U. S. M.
By G. W. CREAMER,
Deputy Mar.

1436 UNITED STATES OF AMERICA:

Circuit court of the United States for the southern district of Alabama.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Alabama and Chattanooga Railway Company, complainants,

vs.

THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chattanooga Railroad Company, defendants.

} Injunction.

The President of the United States to the marshal of the eastern district of Tennessee:

You are hereby commanded to make known to the Alabama and Chattanooga Railroad Company, W. T. Wofford, as receiver, appointed by the chancery court of Dade County, in the State of Georgia,
1437 and J. A. Caldwell, clerk and master, appointed by the chancellor at Chattanooga, in the State of Tennessee, and all persons claiming or acting by, through, or under them, or either of them, and all other persons, that under and by virtue of an order made by the Hon. Joseph P. Bradley, associate justice of the Supreme Court of the United States, and judge of said circuit court, on the application of the complainants on a bill filed by them in said circuit court, on the equity side thereof, wherein Seth Adams, Francis B. Loomis, and John C. Stan-

ton, trustees, &c., are complainants, and the Alabama and Chattanooga Railroad Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, trustees, &c., are defendants, they are enjoined and restrained from interfering with the said receivers in taking possession of and managing said railroad and property.

Herein fail not, and have this writ, with your endorsement thereon of how you have executed the same, at the next term of the said circuit court, to be held on the fourth Monday of December, A. D. 1872.

1438 Witness the honorable Salmon P. Chase, Chief-Justice of the Supreme Court of the United States, and the seal of said circuit court, the 2nd Monday of April, 1872.

Issued the 26th day of September, 1872.

Attest:

[SEAL.] N. W. TRIMBLE,
Clerk U. S. Circuit Court, So. Dist. Ala.

Marshal's return.

Came to hand Oct. 1st, 1872, and executed same at Chattanooga, Tennessee, on the within-named J. A. Caldwell, C. & M., by making known to him contents and delivering a true copy of the within injunction to him in person.

This Oct. 1st, 1872.

S. P. EVANS,
U. S. Marshal East. Dist. Tenn.,
By WILL R. CARLILE,
Deputy U. S. Marshal, E. D. T.

Came to hand Oct. 1, 1872, and executed same at Chattanooga, Tennessee, on E. D. Graham, by making known to him contents and delivering a true copy of within injunction to him in person.

This Oct. 2nd, 1872.

S. P. EVANS,
U. S. Marshal East. Dist. Tenn.,
By WILL R. CARLILE,
Deputy U. S. Marshal, E. D. Tenn.

1439 UNITED STATES OF AMERICA:

Circuit court of the United States for the southern district of Alabama.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. STANTON, trustees for the holders of the bonds secured by the first mortgage of the Alabama and Chattanooga Railway Company, complainants, *vs.* THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chattanooga Railway Company and others, defendants.	In equity. Southern district of Alabama, at Mobile. Order of injunction on bill.

The President of the United States to any marshal of the United States or to either of his deputies, greeting:

You are hereby commanded to make known instanter to the Alabama

and Chattanooga Railroad Company, its officers and agents, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chat-
1440 tanooga Railway Company; to the said Charles Walsh, as receiver as aforesaid, the said Mobile and Ohio Railroad Company, using and occupying the said road under the said Walsh as receiver; the said Robert B. Lindsay and the said John H. Gindrat, claiming to act for the State of Alabama in the control of said road; the said John H. Gindrat as receiver of the chancery court at Chattanooga, in the State of Tennessee; John H. Gindrat, John F. Bailey, and Samuel B. Jones, as assignees of the bankrupt court in the middle district of Alabama; W. T. Wofford, as receiver, appointed by the chancery court of Dade County, in the State of Georgia, and J. A. Caldwell, clerk & master, appointed by the chancellor at Chattanooga, in the State of Tennessee, that under and by virtue of an order of the Hon. Joseph P. Bradley, associate justice of the Supreme Court of the United States and judge of said circuit court, dated the 26th day of August, 1872, on the application of Seth Adams, Francis B. Loomis, and John C. Stanton, trustees, &c., on a bill in equity against the Alabama and Chattanooga
1441 Railroad, Lewis Rice, A. C. Lippitt, et als., trustees, &c., filed in said court on the 30th day of May, A. D. 1872; Lewis Rice, of Boston, Massachusetts, and William J. Haralson, of DeKalb County, Alabama, were appointed receivers to take possession of, recover, and receive all the railroad and other property and appurtenances of every kind and description whatsoever, formerly or now belonging to the Alabama and Chattanooga Railroad Company, and the said defendants and all persons claiming or acting by, through, or under them, or either of them, and all other persons, enjoining and restraining them from interfering with the said receivers in taking possession of and managing said railroad property in possession of or belonging to the said Alabama and Chattanooga Railroad Company.

Herein fail not, and have you this writ, with your endorsement thereon of how you have executed the same, and return the same to the clerk of the circuit court immediately.

Witness the Hon. Samuel P. Chase, Chief-Justice of the Supreme
1442 Court of the United States, and the seal of said circuit court, this 2nd Monday of April, 1872.

Issued 28th day of September, A. D. 1872.

Attest:

[SEAL.]

N. W. TRIMBLE,
Clerk Cir. Crt., Southern Dist. Ala.

Marshal's returns.

I hereby certify that I have, this 30*st* 1st day of September, 1872, near Cass Station, Georgia, within my district, served the within injunction upon the within-named W. T. Wofford, by showing him this original, with the seal of the court thereon, and by delivering to him personally a copy thereof.

W. H. SMYTH,
U. S. Marshal, Dist. Ga.,
By AARON COLLINS,
Deputy.

Came duly to hand and executed same at Chattanooga, Tenn., on J. W. H. Underwood, by making known to him contents and delivering a

true copy of the within injunction to him in person, this December 2nd, 1872.

S. P. EVANS,
U. S. Marshal, E. D. Tenn.,
By WILL R. CARLILE,
Dep'ty U. S. M.

1443 Came to hand Oct. 1, 1872, and executed same at Chattanooga, Tenn., on E. D. Graham by making known to him contents and delivering a true copy of the within injunction to him in person, this Oct. 1, 1872.

S. P. EVANS,
U. S. Marshal, East. Dist. Tenn.,
By WILL R. CARLILE,
Deputy U. S. Marshal.

Came to hand Oct. 1, 1872, and executed same at Trenham's Gap on J. W. O'Neal, sheriff Dade County, Ga., by making known to him contents and delivering a true copy of the within injunction to him in person, this Oct. 1st, 1872.

S. P. EVANS,
U. S. Marshal, East. Dist. Tenn.,
By WILL R. CARLILE,
Deputy U. S. Marshal.

Came duly to hand and executed same at Chattanooga, Tenn., on J. B. Hoyl, judge fourth circuit Tenn., by making known to him contents and delivering a true copy of within injunction to him in person, this December 11th, 1872.

S. P. EVANS,
U. S. Marshal, East. Dist. Tenn.,
By WILL R. CARLILE,
Deputy U. S. Marshal.

1444 Came to hand Oct. 1, 1872, and executed same at Chattanooga, Tenn., on Horace Harding by making known to him contents and delivering a true copy of the within injunction to him in person, this Oct. 2nd, 1872.

S. P. EVANS,
U. S. Marshal, East. Dist. Tenn.,
By WILL R. CARLILE,
Deputy U. S. Marshal.

Came duly to hand and executed same at Chattanooga, Tenn., on R. D. Harvey, judge Rome circuit, Georgia, by making known to him contents and delivering a true copy of within injunction to him in person, this December 1st, 1872.

S. P. EVANS,
U. S. Marshal, East. Dist. Tenn.,
By WILL R. CARLILE,
Deputy U. S. Marshal.

Came to hand Oct. 1, 1872, and executed same at Chattanooga, Tennessee, on D. M. Key, chancellor, &c., by making known to him contents and delivering a true copy of within injunction to him in person, this Oct. 19th, 1872.

S. P. EVANS,
U. S. Marshal, East. Dist. Tenn.,
By WILL R. CARLILE,
Deputy U. S. Marshal.

1445 *Report of Feby. 3rd, 1873, of receivers.*

Hon. WM. B. WOODS,

Judge of the Circuit Court of the United States presiding in the Southern District in and for the State of Alabama:

The undersigned respectfully show unto your honor that they were appointed receivers of the Alabama and Chattanooga Railroad on the 26th day of August, 1872, by order of the Hon. Jos. P. Bradley, one of the associate justices of the Supreme Court of the United States, acting as judge of the circuit court of said district.

That under said order they entered into bond and security and took and subscribed the oath in said order. That they took possession of said road, with all the property belonging to it which could be had at that time, on the twenty-fourth day of September, 1872, following, and began to operate said road, but were delayed by obstructions interposed by the citizens of Dade County, Georgia, under pretended judicial authority, for the period of fifteen days. The cause of that obstruction was, however, removed and the operation of the road resumed, and has continued without obstruction up to date, and without any anti-
1446 cipated trouble in the future. When we obtained possession of the road, its road-bed for the most part was in such condition as to render it almost impassable and unfit for the running of trains, from Chattanooga to Meridean, for want of proper care, and neglect in employing sufficient labor to keep the road-bed in running condition. From Atalla to Birmingham, a distance of fifty-six miles, a large part of the road-bed, all the bridges and trestles, and nearly all the culverts had been swept off by the floods of the preceeding summer. Between Birmingham, Ala., and Meridean Miss., the long lines of trustling were in very bad order, entirely unfit to run trains over, and the bridges over the Black Warrior and Tombigby Rivers had to be repaired before the draw-bridges could be used at all. The lever and push cars, and track-tools, and all means to keep the track in repair, had, for the most part, been removed along the whole line of the road. The depots along the entire line had been stripped of the books, furniture, scales, and all appurtenances for the transaction of business.

The rolling-stock consisted of the engines and cars following, to wit, viz:

	Engine No 1, in the condition, worth		$5,000
1147	Engine No. 2,	"	6,000
	" " 3,	"	8,000
	" " 4,	"	8,500
	" " 5,	"	8,000
	" " 8,	"	5,000
	" " 9,	"	8,000
	" " 10,	"	3,000
	" " 11,	"	8,000
	" " 12,	"	9,500
	" " 13,	"	7,500
	" " 14,	"	8,200
	" " 15,	"	8,500
	" " 16,	"	9,500
	" " 17,	"	10,000
	" " 18,	"	9,000
	" " 19,	"	9,500
			$131,200

80	box-cars,	in bad condition,	val'd at	36,000
4	stock "	" "		2,000
84	flats "	" "		31,500
30	coal "	" "		13,500
12	coaches "	" "		30,000
6	baggage-cars	" "		3,300
3	express	" "		4,500
1	"	" partly built		200
12	caboose,	in bad condition		7,200
				$259,400

The above rolling-stock has been partly taken from the ditch along the road, from stations, &c., & moved into the shops, and part
1448 of it repaired sufficient for use on the road and part of it now undergoing repairs in the shops, with a large force of laborers and mechanics. A large force has been organized, consisting of bridges, track, and construction men, who are actively employed in building bridges, trestles, culverts, and in repairing and renewing all portions of the road-bed and track, and in finishing the passenger-depot at Chattanooga, and the section-houses, to shelter the track-men, along the entire line of the road, and other necessary buildings. The following statement exhibits the total amount of expenditures, together with the amount of the *amount of the* contracts for which the receivers are liable; also the total receipts from all sources, with the balance yet to be paid out of proceeds to be realized from sale of receivers' certificates. The expenditures and receipts in December have to be estimated, as the reports from all agents at a distance have yet to be received; the amount is very near the actual figures.

EXPENDITURES.

October,	1872.	Labor and material	77,165	95
November,	1872.	" "	90,319	83
December,	1872.	" " estimated	72,170	85
"	"	2 locomotives, Portland Works, $14,500	28,700	00
	"	1 passanger-coach, Ta'nton Works	5,300	00
1449	"	2 baggage, mail and express cars $4,500	9,000	
			$282,656	63

Contracts being filled, for which receivers are liable:

2	locomotives, Portland Works, $14,500	$29,000	
6	" Taunton Works, 14,500	87,000	
4	1st class passenger-coaches, 5,300 (5,300)	21,200	
	Lumber, axels, wheels, iron-works, and material for building cars	100,000	
	Lumber and material for buildings	10,000	
	Miscellaneous material for building cars	10,000	257,200 00
			$539,856 63

RECEIPTS.

Earnsings in October,	operation on road	18,280	17
Do.	November, do. do.	26,540	26
Do.	December, estimated	26,092	51

Sept.	26.	Cash advanced by receivers			11,500 00
Octo.	26.	do.	do.	do.	10,000 00
Nov.	22.	do.	do.	do.	3,000 00
Nov.	30.	do.	do.	do.	10,000 00
Dec.	21.	do.	do.	do.	50,000 00
"	"	do.	do.	do.	48,000 00
					$198,417 94
Balance for which receivers are liable					$341,438 69

The receivers have taken the proper legal measures to recover all property belonging to the road, in possession of other parties, as contemplated in the order of the court, and wherever it can be reached. We
1450 have made a contract with Messr. Gill, Clapp, and others, of New York, to negotiate all the receivers' certificates issued under the order of the court at ninety cents on the dollar.

We are gratified to be able to report that the road is in such condition that it affords us facilities to use all the rolling-stock we have at our command; but as yet we have not sufficient to do the business that offers, as it is increasing very rapidly, from the fact that the present management is gaining the confidence of the commercial and travelling public, which had been destroyed before we took possession of the road. Our depots at both termini are full of freight waiting shipment, which we are not able to move, but as soon as the rolling-stock can be delivered which we have contracted for we will be able to do all the business that offers.

The recent heavy rains and overflows washed away embankments on different portions of the road, and delayed the movement of trains several days; these have been repai'd, and are no' operating along the entire line, and are gratified to represent to the court that in
1451 our opinion, and that opinion sustained by the best railroad authority in the country, that the road, as soon as the equipment is complete, will be able to pay all its expenses and the interest on its entire debt.

Respectfully submitted to this honorable court.

LEWIS RICE,
WM. J. HARALSON,
Receivers of the Ala. & Chatta. R. R.

Filed Feb'y 3d, 1873.

N. W. TRIMBLE, *Clerk.*

Confirmed Feb'nary 4th, 1873.

N. W. TRIMBLE, *Clerk.*

1452 *Petition of receivers of claim of Charles O. Whitney.*

To the honorable the judges of the circuit court of the United States for the southern district of Alabama, at Mobile:

The under signed, the receivers appointed by this honorable court on the 26th of August, 1872, to take charge of and manage the affairs and property belonging to and claimed by the Alabama and Chattanooga Railroad Company under a bill filed by the first-mortgage bondholders of the Alabam. and Chattanooga Railroad Company versus The Alabama and Chattanooga Railroad Company, Lewis Rice, and others,

trustees, on the 20th June, 1872, would respectfully represent
1453 that under said order appointing the undersigned as receivers, among other things, it is ordered that the said receivers, with any funds in their hands as such receivers, whether raised by loan or derived from receipts accruing from said property, shall have authority to pay such sums as may be necessary to clear and perfect the title to the right of way or to any property formerly claimed by said railroad company and now claimed to be embraced in said first mortgage.

The undersigned would further represent that on or about the day of , in the year , the said Alabama and
1454 Chattanooga Railroad Company entered into a contract or agreement by and under which Charles O. Whitney was to build a telegraph-line along the line of said railroad at the rate of one hundred and twenty dollars per mile, and in addition thereto was to furnish the necessary instruments and battery material to equip and operate said line; that the said Whitney was to remain in possession and control of said telegraph-line until the amount agreed upon should be paid in full by said company, and then, and after such payment, possession and control was to be delivered to the said company; that the said
1455 Whitney completed said telegraph-line under said agreement, and said company have, on their part, failed to pay the amount due to the said Whitney under the contract aforesaid, and that there is now due to him, under said contract, the sum of thirteen thousand four hundred and seventy-two dollars, as fully appears from the books, papers, and accounts in the office of the said company, with interest thereon from the date of the completion of said telegraph-line; that is to say, on or about the day of , 1871.

The undersigned would further represent that the use of said telegraph-line is absolutely necessary to the successful running and
1456 operation of said railroad; that the trains on said road are run upon orders sent over said telegraph-line, and without said telegraph-line it would be impossible to run or operate said line of railway successfully.

The undersigned, in view of the facts above stated, and in accordance with the provisions of the order appointing them receivers as aforesaid, would respectfully suggest that they be permitted, out of any funds in their possession which may be derived from the loan authorized in said order of appointment or from any receipts accruing from said
1457 property, to pay over to the said Whitney the amount due to him under said contract, taking his receipt therefor, and that they be permitted to receive from the said Whitney a conveyance of said telegraph-line.

All of which is respectfully submitted.

W. J. HARALSON,
Receiver.

LEWIS RICE,
Receiver of the Alabama and Chattanooga Railroad.

FEBRUARY 3RD, 1873.

Filed February 3rd, 1873.

N. W. TRIMBLE,
Clerk.

1458 *Amendment to bill, filed by leave of court.*

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, Daniel N. Stanton.

The complainants, by leave of the court, to amend their bill of complaint as follows:

By inserting in that part of the bill which immediately precedes the prayer of the bill, and which is in the following words, "Your petitioners further state that they have no knowledge of the names and residences of the many and various parties having or claiming to have an interest in or lien on the railway, equipments, and property of the said Alabama and Chattanooga Railroad Company, but complainants pray that, when discovered, such several parties may be added as defendants hereto, with leave to complainants, by proper and necessary averments, to charge them *or* defendants," the following additional
1459 statements and averments, viz:

Complainants further state that Charles B. Wallace, who is a citizen of the State of Georgia, and resides at Cartersville, in said State, is the owner of some of the second-mortgage bonds of the Alabama and Chattanooga Railroad Company, and claims that the same are a charge or lien on said property of said Alabama and Chattanooga Railroad Company, and they pray that said Charles B. Wallace be made a party defendant to this bill, and that subpœna issue to him accordingly, or that, under the statutes in such cases made and provided, he be ordered to appear and plead, answer or to demur to this bill of complaint by a day to be fixed by the order of this honorable court.

(Signed) JAMES Q. SMITH,
Solicitor for Complainants.

Filed February 4th, A. D. 1873.

N. W. TRIMBLE,
Clerk.

1460 *Petition of complainants' counsel for reference as to fees.*

In the circuit court of the United States for the southern district of Alabama, at Mobile. In equity.

IN THE MATTER OF SETH ADAMS AND OTHERS, trustees for the holders of the first-mortgage bonds of the Ala. & C. R. Road, complts.
vs.
LEWIS RICE AND OTHERS, TRUSTEES FOR THE holders of the second-mortgage bonds of the A. & C. R. Road, respondents.

The undersigned would respectfully represent to the court that he is the solicitor of record in the above-stated proceeding under which receivers were appointed by the honorable Joseph P. Bradley, an associate justice of the Supreme Court of the United States, on the 26th day of August, 1872. That among other things it is provided in said order of appointment that the receivers appointed should pay to the solicitors

and counsel of complainants reasonable solicitors' and counsel's
1461 fees for professional services in this cause.

The undersigned further represent that the receivers appointed and now in possession of said road decline to assume the responsibility of designating what sum would be a reasonable fee or compensation for such services.

The undersigned, in view of the facts stated, would respectfully request that the clerk and master of this court, or some other person to be designated by the court, be appointed to take proof of what such reasonable compensation should be, and report at this term of the court. And the receivers as aforesaid be directed to pay over to the undersigned said sum out of any funds raised by said receivers or from the receipts of said road.

JAMES Q. SMITH,
Complainants' Solicitor.

Filed February 4th, 1873.

N. W. TRIMBLE, *Clerk.*

1462 * * * * * * *

FRIDAY MORNING, *February 4th*, 1873.

Court met pursuant to adjournment. Present: Honorable William B. Woods, judge, and the honorable Richard Busteed, associate judge.

Order allowing amendment making Chas. B. Wallace party deft., & order of ref. as to fees, &c., & confirmation of receivers' report.

SETH ADAMS ET ALS.
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als. } In equity.

In this cause the complainants are allowed to amend their bill by making Charles B. Wallace a defendant to said suit. (See amendment on file, this day allowed.)

And this cause coming on to be heard on the filing of the petition of the complainants' solicitor, James Q. Smith, esquire, for an allowance to him for his fees as counsel and solicitor for complainants for advice given and services rendered by him in this cause up to this time, and for a reference to the clerk of this court as master in chancery to
1463 ascertain and report the value of such services. It is ordered and decreed by the court that the matter stated in said petition be referred to N. W. Trimble, esq., clerk of this court, as master in chancery, and that he proceed to ascertain and report what sum is justly due to James Q. Smith, the solicitor of record of complainants, for his counsel, advice, services, and assistance rendered to the complainants in this cause up to this time, and that in executing this order, he will examine the papers in this cause and such witnesses as may be produced before him, and take and certify their depositions in writing to this court, and that he may examine as witnesses any of the parties to this suit.

It is ordered that the report of the master in the premises be made to this term of the court.

On motion of J. P. Southworth, esq., solicitor for the receivers, no one opposing, the report of Lewis Rice and William J. Haralson, receivers of the Alabama and Chattanooga Railroad, was filed and confirmed.

1464 *Report Feby. 4th, '73.—Petition to purchase land by receivers.*

To the honorable the judges of the circuit court of the United States for the fifth judicial circuit of the United States, presiding, for the district of Alabama, at Mobile, Alabama:

Your petitioner', Lewis Rice and Wm. J. Haralson, receivers, &c., respectfully state as follows:

Under the decree of the honorable Jos. P. Bradley, associate justice, etc., appointing the undersigned receivers of the Alabama and Chattanooga Railroad, said receivers are empowered to "clear and perfect the title to the right of way, and to complete any incompleted portion of the property of said company."

By virtue of the above order the undersigned, receivers, deem it their duty, as it is of much importance to the present and ultimate interests of railroad and value of the property, to consummate a purchase of thirty-five acres, or about that quantity, of land, the same being a part of the tract of land, in the city of Chattanooga, which was purchased by John C. Stanton from J. P. Boyce, executor of the last will and testament of Ker Boyce, and the same being that part of said tract upon which are situated the shops, offices, freight-depot, round-house, store-
1465 houses, turn-table, main and side tracks, the unfinished passenger-depot, and other valuable improvements of said railroad in said city of Chattanooga.

The buildings and other improvements were erected and made by the Alabama and Chattanooga Railroad Company, with its funds, on that part of said tract of land above specified, with the consent of the owner of said tract of land; but the said company never had any title to said tract of land, or any part thereof, nor ever paid anything for said tract of land, nor any part thereof; on the contrary, said company refused to buy said tract of land, but induced the owner of said tract to believe that the said company would pay a fair price for that portion of said tract that the company would require or use for their railroad purposes.

The company has never done what it thus induced the owner to believe it would do; but the owner of said tract is willing to sell and convey to the receivers of said court, for a fair price, said thirty-five acres of land first above mentioned, or so much of said tract as is required for the purposes of said railroad; and the receivers believe that all interests concerned will be largely promoted if said purchase is made, for the reason that the tracks already completed and located on
1466 this land are insufficient for the dispatch of the business of said railroad. Some of the buildings are completed and in use, others in process of construction, and absolutely necessary for the transaction of the business of the said railroad; that the portion of the tract of land above described is so favorably situated that *that* it connects the termini of the various railroads at Chattanooga with each other, and with that of the said Ala. & Chatt'a Railroad, and is valuable beyond any comparison with other tracts of land for the transaction or extension of the business of said railroad; and the right of way for said railroad to make such connexion is located upon said tract of land above described, and there is no other tract of land on which it can be located; and if the title to said property is not obtained it will necessitate the removal of the buildings, side and main tracks, and other improvements erected thereon, at many hundreds of thousands of dollars expense, and without being able to find or procure any other site or tract which bears any favorable

comparison in fitness or elegibility for the purposes of said railroad, with the tract of land on which the depots, buildings, tracks, and other improvements are now situated.

1467 Your petitioners, receivers as aforesaid, pray that they be empowered to purchase said thirty-five acres, more or less, first herein above described, to pay for the same, and take a conveyance of the same to themselves as receivers of this court.

Your petitioners pray for all such other orders and directions as are deemed by the court appropriate in the premises.

LEWIS RICE,
W. J. HARALSON,
Receivers.

Filed Feb'uary 4th, 1873.

N. W. TRIMBLE,
Clerk.

1468 *Affidavit of T. J. Carlile.*

Circuit court of the United States for the southern district of Alabama, at Mobile.

IN THE MATTER OF SETH ADAMS ET ALS.
vs.
THE ALA. & CHATTA. R. R. ET ALS.

Before me, the undersigned, commissioner of the United States in and for said circuit, personally appeared Thos. J. Carlile, who, being duly sworn, says that he resides in Chattanooga, Tennessee; that he is the assistant superintendent of the Alabama and Chattanooga Railroad; that he is personally acquainted with Charles O. Whitney, and has been for the past four years; that said Whitney erected the telegraph-line along the Alabama and Chattanooga Railroad, under contract with said company.

That in various conversations with said Whitney in reference to said telegraph-line, he has repeatedly heard him say that unless he

1469 was paid the balance due him for said telegraph-line he would refuse to allow the managers of said railroad to use it, and if this failed to induce the payment of the amount due him he would take down the wires, sell them and the other material connected with the telegraph-line, to realize the amount due him. He also stated to this affiant that he unwillingly permitted the use of his telegraph-line for railroad purposes, but that he did it on promises of the various managers of the railroad that they would obtain and pay the balance due him. He further stated that, under any circumstances, if he did not receive the balance due him he would sell said telegraph-line the first opportunity that offered.

Said Whitney, to affiant's certain knowledge, has always controlled said telegraph-line; has hired and controlled the operators on said line frequently to the disadvantage of the managers of said railroad, and it is very desirable for the managers or receivers of said railroad,

1470 whoever they may be, to own and control said telegraph-line for the prompt and economical transaction of the business of said railroad.

Frequently instances occur where a construction train, with a gang of fifty men, are laid out on a side-track, between telegraph-stations, where they would be kept for days, waiting for regular trains be-

hind time, if the telegraph-line is not used. Again, when any accident or delay occurs to throw passenger or freight trains off schedule-time, they will necessarily be delayed a long time, frequently two or three days, before they can proceed over the entire length of the railroad, thereby adding hundreds of dollars to the ordinary expense of operating said railroad, simply in the loss of time, labor, fuel, and the use of rolling-stock, if the telegraph-line is not used frequently and judiciously.

The telegraph-line along the Alabama and Chattanooga Railroad is in constant daily use by the managers and officers of said rail-
1471 road, and its use is entirely indispensable in operating successfully this or any other first-class railroad.

THOS. J. CARLILE.

Subscribed and sworn to before me this 5th day of February, A. D. 1873.

HENRY S. SKAATS,
U. S. Commissioner.

Filed February 5th, 1873.

N. W. TRIMBLE, *Clerk.*

Report of N. W. Trimble, master, as to counsel-fees.

SETH ADAMS ET ALS., TRUSTEES FOR THE HOLDERS of the first-mortgage bonds of the A. & C. R. R. Company, complainants, *vs.* LEWIS RICE ET ALS., TRUSTEES FOR THE HOLDERS of the second-mortgage bonds of the Alabama and Chattanooga R. R. Company, defendants.	In equity. Southern district of Alabama. At Mobile.

1472 The report of N. W. Trimble, clerk and special master, to whom was referred the petition of James Q. Smith, esq., solicitor and counsel of record of complainants, to enquire into, take proof, and report at this term of the court, as to what amount he is entitled to as solicitor and counsel for complainants for legal services, advice, and attention in this case, respectfully states to the court that he has attended to the matter, and in doing so, has examined the papers in this cause, and also taken in proof the statement of James Q. Smith and solicitor and counsel as to the extent of legal services and other assistance rendered by him in behalf of complainants. That he has also taken in proof the statements of John T. Morgan, John Little Smith, and William Boyles, solicitors of this court, as to what would be a reasonable compensation for the legal services, and attention rendered to complainants up to the present time, and all of said witnesses, except the said John
1473 Little Smith, agree that the sum of fifteen thousand dollars would be a reasonable amount for such legal services and attention. The said John Little Smith states that from twelve to fifteen thousand dollars would be a reasonable compensation, and that the largest sum is the more proper sum.

The special master would further state that the order of Mr. Justice Joseph P. Bradley, made on the 26th day of August, 1872, appointing receivers under the bill filed by said solicitor, James Q. Smith, fully provides that "reasonable compensation to complainants' solicitors and

counsel for professional services in this cause," to be paid out of any funds in the hands of the receivers, whether derived from the loan authorized by said order, or the receipts of said property.

The special master, from his examination of all the papers in the cause, and the proof submitted to him under oath before referred to, and considering the large amount involved in complainants' bill of
1474 complaint, that is to say, about five and a half million dollars, that fifteen thousand dollars is a reasonable compensation for the legal services, advice, and attention of said James Q. Smith, in behalf of complainants as their solicitor and counsel, to be paid by said receiver, out of any funds derived from the loan authorized by Mr. Justice Bradley, or from the receipts of said property.

All of which is respectfully submitted for the confirmation of this honorable court.

Feb. 6th, 1873.

N. W. TRIMBLE,
Clerk and Special Master.

The master respectfully asks that he be allowed the sum of forty dollars for services in attending to the above-stated matter.

N. W. TRIMBLE,
Clerk & Master.

Filed February 6th, 1873.

N. W. TRIMBLE,
Clerk.

1475 *Affidavit of W. Boyles as to counsel-fees.*

THE STATE OF ALABAMA,
Mobile County:

Personally appeared before me, N. W. Trimble, special master, appointed to enquire and report what should be a reasonable fee for the complainants' solicitor in the case of Seth Adams et al., as trustees, &c., vs. The Alabama and Chattanooga Railroad Company, in the circuit court of the United States, at Mobile, Alabama, who, being sworn by me in due form of law, deposes and says that he knows little of the litigation in said cause, that he has not had sufficient time to examine into the same fully, but he is advised of the large amount involved in the suit, and the result of the decree rendered. That he is practising attorney in the State and Federal courts. That from his knowledge & information derived from others in regard to said litigation, he is of the opinion, that fifteen thousand dollars would be a reasonable fee for the complainants' solicitor in said cause.

W. BOYLES.

1476 Subscribed and sworn to before me this 6th day of February, 1873.

N. W. TRIMBLE,
Clerk & Master.

Filed February 6th, 1873.

N. W. TRIMBLE,
Clerk.

Affidavit of J. Little Smith as to fees of counsel.

THE STATE OF ALABAMA,
Mobile County:

Personally appeared before me, N. W. Trimble, special master appointed to inquire and report what would be a reasonable fee for

the complainants' solicitor in the case of Seth Adams et als., as trustees, &c., vs. The Alabama and Chattanooga Railroad Company, in the circuit court for the southern district of Alabama, , who, being sworn by me in due form of law, deposes and says that he is not familiar with the litigation in the cause, and that he has not had time to examine into the same in detail, but he says that he has looked into the amount and large interests involved in the suit, the objects and general character of the litigation, and
1477 its objects and the result of the decree rendered in the cause, and the connection of the complainants' solicitor with the litigation and the character of his services. He further deposes and says that he is a practising lawyer in the State and Federal courts in Alabama, and knows what the usual rates and charges of lawyers for professional services are, and, from his knowledge and information of said litigation, he is of the opinion that from twelve to fifteen thousand dollars would be a reasonable fee for the complainants' solicitor in said cause, and that the largest sum is most probably the proper sum.

J. LITTLE SMITH.

Subscribed and sworn to before me this 5th day of February, A. D. 1873.

N. W. TRIMBLE,
Clerk & Master.

Filed February 6th, 1873.

N. W. TRIMBLE,
Clerk.

1478 *Affidavit of Jno. T. Morgan as to counsel-fees.*

THE STATE OF ALABAMA,
Mobile County:

John T. Morgan, being duly sworn, states on oath that he has carefully examined the bill filed by Seth Adams and others vs. The Alabama and Chattanooga Railroad Company, and the argument of Jas. Q. Smith filed in said cause, and he knows of the labor and attention bestowed by Judge Smith in said cause in a large part, but not all that he has done. He knows the amount in controversy in said cause now pending in the circuit court of the United States at Mobile. The preparation of the bill in said cause, aside from the argument and the travel which he has been compelled to make in procuring a hearing thereon, and the numerous affidavits prepared and filed by the complainants, have required a large and unusual amount of labor on the part of the counsel of complainants. Affiant is familiar with the rates of charges for services in the Federal and
1479 State courts at Montgomery and in Selma, Alabama, and has some acquaintance with the usual rate of charges in such cases at Mobile. Affiant has been at the bar in Alabama since 1846. Affiant states it as his opinion and belief that the services rendered by James Q. Smith for the complainants in said cause up to this time are reasonably worth fifteen thousand dollars. And as the complainants are trustees in a mortgage, and file their bill in that character, his opinion is that said sum is a reasonable charge for said services against the fund in the hands of the receivers appointed in said cause.

JNO. T. MORGAN.

Subscribed and sworn to before me this 4th day of February, 1873.
JOHN F. BAILEY,
United States Commissioner.

Filed February 6th, 1873.
N. W. TRIMBLE,
Clerk.

1480 *Affidavit of J. Q. Smith as to counsel-fees.*

Circuit court of the United States for the southern district of Alabama, at Mobile.

Before me, the undersigned special master, to whom was referred the petition of James Q. Smith, solicitor of record of complainants in the suit in equity pending in this court in behalf of Seth Adams and others, against the Alabama and Chattanooga R. Road, Lewis Rice, and others, defts., who, being by me sworn, on oath says: That he is the solicitor of record employed by the trustees of the bondholders of the first-mortgage bonds of the Ala. & C. R. R. Company; that under said employment he filed a bill in equity in favor of said first-mortgage bondholders against said railroad company and others praying for the appointment of receivers to take charge of the said railroad and other property belonging to said company; that much labor was expended in the preparation of said bill and exhibits and printed argument presented
1481 to the court; that every step taken in the preparation of the bill and application for receivers was contested by defendants with the aid of large number of counsel, comprising some of the best legal talent in the State; that the amount in controversy in the suit is nearly five and a half million dollars, computing first-mortgage bonds and interest due thereon; that in preparing the necessary proof and presenting it to Mr. Justice Bradley for hearing, with the bill and exhibits, he had to make trips to Galveston, N. York, and Washington, from Montgomery, and several trips to Mobile from Montgomery; that in view of the services rendered in this proceeding and the success attending the bill in establishing its equity and causing the appointment of receivers, who are now in possession and control, 15,000 dollars is a reasonable compensation for the legal services rendered.

JAMES Q. SMITH.

Sworn to and subscribed before me this the 5th day of Feb'y, 1873.
N. W. TRIMBLE,
Clerk & Master.

Filed Febr'y 6, 1873.
N. W. TRIMBLE, *Clerk.*

1482 THURSDAY MORNING, *February 6th*, 1873.

Court met pursuant to adjournment; present, the honorable William B. Woods, judge, and the honorable Richard Busteed, judge of the district courts of the United States for the district of Alabama.

Order allowing fee to J. Q. Smith, sol., $15,000.00.

SETH ADAMS AND OTHERS
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, and Lewis Rice, et als., trustees, &c.

A motion having been heretofore made in this cause that the receivers

pay to James Q. Smith, esquire, the solicitor for the complainants, a reasonable counsel-fee for the services of said solicitor, and it having been referred to Nathaniel W. Trimble, esq., to take proof of what would be a reasonable compensation upon this behalf, and the report of the said master being presented to and considered by the court,
1483 together with the proofs on file, and submitted therewith, and a motion made to confirm the same, and it appearing by said report and proofs that the sum of fifteen thousand dollars would be a reasonable fee to be allowed to said solicitor, it is ordered that the receivers pay to the said James Q. Smith, esq., the sum of fifteen thousand dollars as and for counsel fees; and it is further ordered that there shall be no other or further allowance for counsel-fees to the complainants or their solicitor for any matter or thing or service rendered up to the date of this order.

It is further ordered that N. W. Trimble, the special master to whom the reference was made in the above cause, be allowed the sum of forty dollars for executing said reference. And it is ordered that said receivers pay said sum to said master.

(Signed) W. B. WOODS, *Judge.*

1484 *Affidavit of J. H. Gindrat.*

UNITED STATES OF AMERICA,
Southern District of Alabama:

Before Henry S. Skaats, a United States commissioner, personally appeared John H. Gindrat, who, being sworn, on oath says that in August, 1871, as receiver appointed by the governor of the State of Alabama, under the 8th section of the act of the legislature of said State, on account of the default of the Alabama and Chattanooga Railroad Company to provide for the payment of the interest due on its bonds endorsed by said State, he took possession of the railroad of said company in the State of Alabama, and at the same time he took possession of the telegraph line and depots along the line of said road in the States of Alabama and Georgia, and retained possession and worked and used the same until he surrendered the same to the assignees in bankruptcy of said company, and they retained possession and use of the same until they were taken possession of by or under the authority of
1485 Charles Walsh, esq., a receiver of said road appointed by the chancery court of Sumter County, in said State, and subsequently to the purchase of the road by the State of Alabama at the bankrupt sale, the said line of telegraph was worked by the superintendent of the road, Horace Hardin, for the use of said State in operating said road.

JOHN H. GINDRAT.

Subscribed and sworn to before me this 7th day of February, A D. 1873.

HENRY S. SKAATS,
U. S. Commissioner, Southern District of Alabama.

Filed February 7th, 1873.

N. W. TRIMBLE, *Clerk.*

1486 FRIDAY MORNING, *February 7th, A. D.* 1873.

Court met pursuant to adjournment; present, the honorable W. B. Woods, judge, and the honorable Richard Busteed, judge of the district courts of the United States for the State of Alabama.

Order of court concerning State of Alabama.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company, complainants,
versus
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, trustees, &c., and others, defendants.

In the above-entitled cause, in addition to the orders heretofore made, on the suggestion of counsel, it is ordered, adjudged, and decreed that if the State of Alabama shall at any time have sold, or shall sell, the railroad and other property of the Alabama and Chattanooga
1487 Railroad Company to a purchaser upon any contract hereafter authorized or santioned by the legislature of said State, and the arrearages of interest due on the first-mortgage bonds as set forth in the bill in this cause shall be discharged and satisfied by payment to the holders of the coupons therefor, then, and in that case, the receivers appointed by this court in this cause, and then acting as such, shall, at the request of the said State, through her governor, deliver the said railroad and all other property of said company in the hands of or under the control of said receivers, to the purchaser as aforesaid, to be subject, however, to the lien for the payment of moneys already advanced or that may be hereafter advanced by said receivers, and to the lien of the moneys already borrowed, or that may be borrowed by said receivers, under the orders made by this court, and all interest to accrue thereon, and subject to the lien of the first mortgage on said railroad and other property, and the bonds secured
1488 by the same as specified in said orders of the 26th day of August, 1872, and also subject to the lien of the said State as guarantor or endorser of said bonds, according to the terms of said guaranty or endorsement, and the laws by which the same was authorized to be made, it being expressly understood that this order is not intended to interfere with or disturb the relations between the said State and the said first-mortgage bondholders in any manner in respect to said railroad and other property of said company—

Provided that, if such purchaser shall fail to pay any instalment of interest at the maturity thereof, on said four million seven hundred and twenty thousand dollars of said first-mortgage bonds as mentioned in said orders of the 26th of August, A. D. 1872, falling due hereafter as may be agreed on between said State and such purchaser, or on the failure of such purchaser to comply with the provisions of the 8th section of the act of the legislature, passed on the 19th of Feb-
1489 ruary, A. D. 1867, entitled "An act to establish a system of internal improvements in the State of Alabama," as to providing for the payment of said interest; then, in that case, the said State shall retain and have the right to proceed for the collection of such instalment or instalments so unpaid and unprovided for, and to all things, and exercise all powers in relation to the same as provided in said 8th section of said act, and to resort to, use, and exercise against such purchaser all the rights and remedies given or authorized by law in any manner for the enforcement of such contract made with such purchaser for any failure to comply with the same, and all remedies of every character,

specially provided by the statute of said State, or existing otherwise under the said contract, or under the law against said road and other property sold by the said State, and against such purchaser from the said State, or any person or persons holding the same by pur-
1490 chase or otherwise, by or through such purchaser from the said State.

W. B. WOODS,
Judge.

Order of court as to purchase of 35 acres of land.

In the circuit court of the United States for the district of Alabama, at Mobile, in the fifth judicial circuit of the United States. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. STANTON, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company, complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, trustees, &c., and others, defendants.

The petition of the receivers in this cause, filed in said circuit court, for authority to purchase thirty-five acres, or such other quantity
1491 of land described in the petition as is necessary for the uses and purposes of the Alabama and Chattanooga Railroad, and its efficient and profitable working and management, &c., has been duly considered by the court, and it is now ordered, adjudged, and decreed that said receivers be, and they are hereby, authorized to purchase and pay for thirty-five acres, or about that quantity, of land, the same being a part of the tract of land in the city of Chattanooga, in the State of Tennessee, which was purchased by John C. Stanton from J. P. Boyce, executor of the last will and testament of Ker Boyce, and the same being that part of said tract upon which are situated the shops, offices, freight-depot, round-house, store-house, turn-table, main and side tracks, the unfinished passenger-depot, and other valuable improvements of said railroad in said city of Chattanooga; and the same being necessary for the uses and purposes of said railroad, and its efficient and profitable working and management, and to take a conveyance thereof
1492 to themselves as such receivers, and to their successors in such office of trust, from the person holding the title; the effect of which purchase and conveyance shall be not only to vest the title to said lands so purchased in said receivers and their said successors, subject to the control of this court, but also to confer upon the State of Alabama, as endorser of the bonds of said company, the same lien and all the powers which the said State would have had under its statute lien as provided by the act of the legislature of said State, passed on the 19th day of February, A. D. 1867, entitled "An act to establish a system of internal improvements" in the State of Alabama, and the amendments thereto, if said property so purchased had been the property of said railroad company *company* at and since its organization: Provided, however, that the said receivers must not buy said lands, nor any part thereof, without first paying or causing to be paid any purchase-money which may remain due and unpaid therefor to the original vendor,

1493 and which may be a lien on said property so purchased; and provided further, that said purchase shall embrace only the value of said land so purchased, exclusive of the value of the buildings thereon, and exclusive of the enhanced value of the land so purchased by reason of buildings thereon; and provided further, that the right of way over said land described in the petition has not already been procured by said company by purchase or otherwise, in which event the value of the right of way shall not be taken in the estimate of the value of the land to be purchased; and provided further, that if said company has paid any sums of money to any person having any interest in or lien upon said lands, or the funds of said company have been used on the payment to any person having any interest in or lien on said lands, such payments shall be deducted from the price to be paid for said land by said receivers; and said receivers are hereby ordered to investigate as to these alleged facts, and make their report thereon with their proceedings under this order to this court, at this or the next term, subject to the approval of this court.

W. B. WOODS, *Judge.*

FEB. 7, 1873.

1494 *Affidavit of Thos. J. Carlile.*

United States circuit court for the fifth judicial circuit and southern district of Alabama. In equity.

IN THE MATTER OF THE PETITION OF LEWIS Rice and William J. Haralson, receivers, &c.

Thomas J. Carlile, of the city of Chattanooga, in the State of Tennessee, being duly sworn, doth depose and say that he has read the petition aforesaid, and that he is the assistant superintendent of the said The Alabama and Chattanooga Railroad, under the appointment of said receivers, and that it is necessary for the purposes of said railroad, and in order to the successful operating of the same, that
1495 the said railroad company should have and occupy all the lands in the said city of Chattanooga upon which the buildings, depots, round-house, and other necessary buildings of said company are erected, and that said lands contain thirty-five acres, more or less, and the whole of this tract is now and has been used for the purposes of the railroad; and affiant further saith that, in his opinion, the said thirty-five acres of land are not sufficient for the necessary purposes of said railroad; fifty acres could be used to great advantage to the railroad.

THOS. J. CARLILE.

Sworn to and subscribed in open court this 7th day of February, 1873.

W. B. WOODS, *Judge.*

Filed February 7th, 1873.

N. W. TRIMBLE, *Clerk.*

1496 *Order of reference to N. W. Trimble, master, &c.*

Circuit court of the United States at Mobile, in the 5th judicial circuit of the United States. In equity.

SETH ADAMS ET ALS., TRUSTEES, &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company and others. } December term, 1872.

On consideration of the petition of the receivers in this cause, filed at this term, for authority to pay to Charles O. Whitney the balance due to him, as shown is said petition, it is now ordered and adjudged that the matters of said petition be referred to N. W. Trimble, as mas-
1497 ter, to ascertain the facts and to report to this court without delay whether the said Whitney has abandoned or surrendered the lien in his favor disclosed by said petition; whether the said Whitney has been paid all that is due him as to said telegraph-line and equipments by said company; whether said Whitney has realized any nett profits from said telegraph-line, and, if so, how much, and whether such nett profits ought to be deducted from the sum due him for building and equipping said telegraph-line, and lawful interest thereon, and what amount now remains due to said Whitney.

The said Trimble, as master, must see that reasonable notice of the reference has been given to the parties interested, or to their solicitors or attorneys.

W. B. WOODS,
Judge.

FEB'Y 7, 1873.

Filed February 7th, 1873.

N. W. TRIMBLE,
Clerk.

1498 *Petition of J. H. Gindrat [& J. F. Bailey.]*

UNITED STATES OF AMERICA,
District of Alabama:

To the honorable William B. Woods, judge of the fi'th judicial circuit of the United States:

Your petitioners, John F. Bailey and John H. Grindrat, two of the assignees in bankruptcy of the Alabama and Chattanooga Railroad Company, show to your honor that, on the 30th day of May, A. D. 1872, Seth Adams, Francis B. Loomis, and John C. Stanton, as the trustees of the first-mortgage bondsholders of said company, exhibited their bill of complaint in the circuit court of the United States for the district of Alabama, at Mobile, on the equity side of said court, against the Alabama and Chattanooga Railroad Company and others, as defendants, and your petitioners and Samuel B. Jones were named therein as defendants, as assignees of said company, and subpœnas to answer *to answer* the said bill were served upon your petitioners; that various orders were made in said cause of the date of the 26th of August, A. D. 1872, copies of which orders are hereto attached as exhibits and parts of this petition.

1499 They further show that, in and under said orders, Lewis Rice

and William J. Haralson were appointed the receivers of that railroad and other property of said company, and accepted the trust and qualified and took possession of said road and other property of said company, and are acting as such receiver; and one of said orders, made in August, A. D. 1872, as aforesaid, authorized said receivers to borrow money to execute certain purposes as declared in said orders, and that they should issue certificates for the money so borrowed, with the proviso that the said certificates should not be disposed for less than ninety cents to the dollar of their face, nor at a *quarter* rate of interest *less* than eight per cent. per annum, payable half-yearly; and it was also ordered that all monies which might be raised by said receivers by loan or which might be advanced by them for the purposes expressed in said orders, not exceeding the sum of one million two hundred thousand dollars, should be a first *lein* prior to all others on the said railroad and other property, and to be paid before the said first-mortgage bonds out of the proceeds of said property.

1500 They further show that the said receivers filed in said court on the 3d day of February, A. D. 1873, a report purporting to embrace all the transactions of the said receivers in their trust, and in which they report that they have advanced at various times divers sums of money to the purposes of their trust, which amount in the aggregate to the sum of one hundred and thirty-two thousand five hundred dollars, and they do not report the amount of money they have borrowed by the disposition of the certificates authorized by said order, nor do they report that they have borrowed any money on said certificates.

They further show, that said report exhibits that the receivers have expended two hundred and eighty-two thousand six hundred and fifty-six $\frac{63}{100}$ dollars, and that their whole receipts from the earnings of the road amount to seventy thousand nine hundred *nine hundred* and twelve $\frac{94}{100}$ dollars, and the receipts from advances made by themselves as aforesaid amount to said sum of one hundred and thirty-two thousand five hundred dollars, and which last two sums embrace all the receipts as shown by their report, and these sums are in the aggregate

1501 two hundred and three thousand four hundred and twelve $\frac{94}{100}$ doll'rs, when the report states them to be $198,417.94; and the report in fact exhibits that the receipts of $203,412.94, when deducted from the expenditures of $282,656.63, will show a balance of expenditures of $79,243.69; and the report in no part thereof shows from what source or fund this expended balance of $79,243.69 was procured.

They further show, from information and belief, that the sums reported as aforesaid as advanced by said receivers was procured by them by some disposition of the certificates authorized by said order to be issued, but which disposition was not authorized by said order. On information and belief, your petitioners state that some of said certificates have been disposed by said receivers at less than ninety cents to the dollar, and some have been hypothecated as security for loans obtained by said receivers, and they believe that the difference between the receipts and expenditures, as shown in said report, was money obtained by said receivers by the disposition aforesaid of said certificates.

They further state, on information and belief, that said report does not embrace all the liabilities incurred on account of said road by

1502 said receivers, and from *and from* information and belief they state that said receivers, or some one by their authority, have issued to laborers and employees on said road, and others to whom said receivers were liable for work and labor or services or things sold, cer-

tificates or vouchers, or some evidence of such indebtedness, and that there are now outstanding a large amount of these *out of* securities; and that the said receivers have not included in their account of expenditures these outstanding securities or evidences of debt, or they have not reported the true amount of their liabilities, not having given an account of the securities or evidences, nor for what given, nor the amount thereof.

They further show that the report does not show how much money was advanced severally by each of the receivers, and on information and belief they state that these advances were not made jointly by said receivers, or, if so, the sums so advanced were procured by them jointly by the hypothecation of the certificates authorized to be issued by said orders; and they pray your honor to make an order in said cause requiring said receivers to make another and supplemental report to this court, and that it be made at the present term of this court, and that they shall report under oath of both of said receivers—

1503 1. What amount of certificates authorized to be issued under the said orders of this court are in the hands of said receivers which have been countersigned by a majority of the trustees *of* for said first-mortgage bondholders, and by which of said trustees.

2. What amount of said certificates have been disposed of by said receivers, and when, and to whom, and where such persons live, and upon what contract and terms in each instance.

3. What amount of said certificates have been hypothecated or deposited or lodged with any and what persons, and upon what terms, and for what purposes, and whether or not they, and how many, and the amou'ts thereof, have been deposited with any and *of* what persons, and of what place, as a pledge or security for the repayment of any and what sums of money borrowed by said receiver or either of them.

4. What amount of said certificates have been countersigned by a majority of the trustees of the said first-mortgage bondholders.

5. From whom and from what source and in what manner and upon what security they or either of them obtained the amounts, severally, of the sums stated in said report as advanced by them, and whether or

1504 not upon the security of a pledge, deposite, or hypothecation of said certificates, or any, and the amount thereof, and the terms of such deposite, pledge, or hypothecation.

6. Whether or not the sums stated in said report as advanced by said receivers were advanced jointly or severally; and if severally, how much by each, and whether any of said sums so advanced severally, and how much, was procured by the pledge, deposite, or hypothecation, if any, of such certificates, and how many, and with whom, and upon what terms such pledge, deposite, or hypothecation was made in each instance.

7. From what source was the excess of expenditures, $79,243.69, over the receipts, as shown in said report, obtained, and from whom and upon what security, and whether by a pledge, deposite, or hypothecation of said certificates, or any and what amount thereof, as a security for the repayment thereof, or was any, and how much, of said excess so procured.

8. What amount of said certificates have been sold by said receivers and when, severally, and to whom and at what price, and what contract as to interest.

9. That said receivers shall set forth whether or not there are other liabilities incurred by them in the management of said road, and not

paid, than those stated under the head of "Contracts being
1505 filled for which receivers are liable," and what such liabilities are, and whether or not there are such outstanding liabilities on account of work and labor done or services rendered or articles sold by persons to said receivers or under their authority.

10. Whether or not certificates, vouchers, or evidences of debt have been issued or delivered to any persons by said receivers, or any person under their authority and direction, on account of any work, or labor, or services rendered, or articles sold to said receivers or persons under their authority and direction; and if so, what amount thereof and to whom, and on what account, and the form of such certificates, vouchers, or evidences of debt.

11. Whether or not they have included the amount of said certificates, vouchers, or evidences of debt so issued on account of such work and labor, or services, or articles sold under the head of "Expenditures for labor and material," as shown in said report, or how much thereof is so included.

12. How many and what amount of the certificates authorized to be given for the money borrowed by said receivers have been placed in the hands of Gill, of New York, or Gill and Clapp, of New York, or William G. Hunt, of New York, or others, as mentioned in said
1506 report, and who these others are, and for what purposes they were so deposited or placed, and whether or not said receivers, or one, and which, of them, has borrowed or obtained money, and how much, from each of said parties in whose hands said certificates were placed, and if the same was not borrowed on the pledge, deposite, or hypothecation of the said certificates as a security for the repayment of the sums so borrowed, or for what other or different purpose.

13. Whether or not various sums of money, and how much, have been advanced to said receivers, or one of them, and which, by various persons, and by whom and when, on the faith of the pledge, deposite, or hypothecation of said certificates or some, and how much, of them, as a security for the payment of such advances.

And as in duty bound your pe'tion*tione*rs will ever pray, &c.

WALKER, ELMORE, BROOKS & O'NEAL,
Sol't'rs for said Petitioners.

Before me, Henry S. Skaats, United States commissioner, personally appeared John H. Grindrat, who, being sworn, on oath says that the matter and things stated in the foregoing petition are true on his information and belief.

JOHN H. GRINDRAT.

Sworn to and subscribed before me this the 8th day of Feb'uary, A. D. 1873.

HENRY S. SKAATS,
U. S. Commissioner Southern District of Alabama.

Filed February 8th, 1873.

N. W. TRIMBLE *Clerk.*

1507 *Report of N. W. Trimble, master, &c., regarding purchase of telegraph line.*

In the circuit court of the United States for the fifth judicial circuit and southern district of Alabama. In equity.

SETH ADAMS ET ALS., TRUSTEES, &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

The undersigned, as master, to whom was referred, by the decretal order of this honorable court of February 7th, A. D. 1873, in said cause, the petition of the receivers in said cause filed at the present term, praying for authority to pay to Charles O. Whitney the balance due to him, as shown in said petition, begs leave to report as follows:

1508 Pursuant to notice to all the parties, the solicitors of the parties appeared before me on the 8th day of February, A. D. 1873, and examined and cross-examined such witnesses as they respectively desired. And after this full examination it was admitted by the solicitors representing the parties (and I think correctly admitted, because fully proved) that the said Charles O. Whitney had and still has the lien disclosed in said petition on the said telegraph line and its equipments; that the said Whitney built and equipped said telegraph line under the contract disclosed in said petition; that for the building and equipment thereof under said contract he was justly entitled to forty thou-

1509 sand and sixteen $\frac{25}{100}$ dollars, ($40,016.25,) which was due to him on the 10th day of May, 1871, the time when said line and equipments were finished and completed; that twenty-six thousand five hundred and forty-four $\frac{25}{100}$ dollars ($26,544.25) has been paid to said Whitney and no more of the said indebtedness to him; that the balance remaining due to said Whitney, with lawful interest counted thereon up to February 3rd, A. D. 1873, is fourteen thousand eight hundred and seventy-one $\frac{40}{100}$ ($14,871.40) dollars, all which items appear in Exhibit A, hereto attached, as part hereof, which exhibit shows the balance due to said Whitney.

1510 It was also admitted by the solicitors representing the parties, and in my judgment clearly proved, that the said lien of the said Whitney has never been lost by him by surrender, waiver, abandonment, or otherwise, and that he is entitled to the said balance of fourteen thousand eight hundred and seventy-one $\frac{40}{100}$, ($14,871.40;) and I report that sum as the balance now due to said Whitney, which ought to be paid.

The master asks that he may be allowed the sum of one hundred dollars for executing this reference and making this report.

All of which is respectfully submitted.

N. W. TRIMBLE,
Master.

FEBRUARY 10, A. D. 1873.

Filed February 10th, A. D. 1873.

N. W. TRIMBLE,
Clerk.

1511 EXHIBIT A.

The Alabama and Chattanooga Railroad Company in account with Charles O. Whitney.

CHATTANOOGA, TENN., *May 10th*, 1871.

For building 295 miles of telegraph line, at $120 per mile..	$35,400 00
For 27 sets telegraph instruments complete, @ $100 per set.	2,700 00
For battery, material, & supplies.....	1,816 25
	$40,016 25
Cr. by cash on account.....	26,544 25
	$13,472 00
To interest from May 10th, 1871, to February 3rd, 1873...	1,399 40
Balance due Febr'y 3rd, 1873	$14,871 40

Filed February 10th, 1873.

N. W. TRIMBLE,
Clerk.

1512 *Order confirming report of N. W. Trimble, master, &c.*

In the circuit court of the United States, at Mobile, in the 5th judicial circuit of the United States. In equity.

SETH ADAMS ET AL., TRUSTEES, &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company and others.

The report of the master, N. W. Trimble, at this term, under the decretal order of this court of February 7th, 1873, in this cause, refer'ing to said master the petition of the receivers in this cause praying for authority to pay Charles O. Whitney the balance due to him as shown in said petition, has been read in this court, and no objections or exceptions have been made of filed to said report, on the contrary said report is in accordance with the admissions and views of the solicitors representing the parties in the cause: It is therefore ordered, adjudged, and decreed that said report of said master be in all things confirmed, and that the receivers, out of any funds in their hands
1513 as such receivers, pay to said Whitney the sum of fourteen thousand eight hundred and seventy-one $\frac{40}{100}$ dollars, the balance due to him, as shown in said report, with interest thereon from the 8th day of February, 1873, the date of said report; on making such payment, the receivers must take from said Whitney a relinquishment of all his rights and claims in or to the telegraph line and equipments mentioned in said petition.

It is further ordered that the receivers, out of any funds in their hands as such receivers, pay to said master one hundred dollars for his services in executing said reference and making said report.

February 10, 1873.

W. B. WOODS,
Judge.

In the circuit court of the United States for the district of Alabama, at Mobile.

SETH ADAMS ET ALS.
vs.
THE ALA. & CHATTANOOGA RAILROAD COMPANY ET ALS.

In the said cause it is agreed that the motion to require the receivers to make another supplemental report, which was to be made on the 13th of Feb'y, instant, at the instance of Gindrat & Bailey, as
1514 assignees of the Ala. & Chattanooga Railroad Co., be continued to the next regular term of said circuit court.

Feb'y 12th, 1873.

ELMORE, WALKER,
BROOKS & O'NEAL,
For Assignees.
E. H. GRANDIN,
Sol. of said Receivers.

Leave to file answer & cross-bill,

SETH ADAMS ET ALS.
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD ET ALS. } In equity.

This day comes Charles B. Wallace, one of the defendants, by his solicitor, and prays leave to file his answer, and further leave to file a cross-bill, which is granted.

(S'g'd) W. B. WOODS, *Judge.*

FEBRUARY 14, 1873.

1515 *Answer of Chs. B. Wallace.*

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. STANTON
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD COMPANY, LEWIS RICE, A. C. LIPPITT, DANIEL N. STANTON, AND OTHERS.

The separate answer of Charles B. Wallace, who has been admitted to said record as a party defendant to the bill of complaint filed in said cause.

This respondent, having carefully examined said bill of complaint, admits all and singular the matters and things therein stated and alleged, except so far as the same are inconsistent with the facts hereinafter stated in this answer, and except so far as said statement and allegations are hereinafter denied or contradicted.

This defendant, upon information and belief, denies that there is or ever was in Alabama such a body corporate chartered by law as the said Alabama and Chattanooga Railroad Company. There was and is an organization in Alabama known as the Alabama and Chat-

1516 tanooga Railroad Company, but the pretended act of the legislature of Alabama under which said company is claimed to be a body corporate and politic is void, as being contrary to the constitution of the State of Alabama, as respondent is informed and believes, and so states.

Nevertheless said so-called company, so organized, is a valid and subsisting company without a charter, and is in legal effect and in fact a joint-stock company without a charter, and as such is supported and sustained by the agreement of the persons who own the stock therein. And said stock and the stock of the Wills Valley Railroad Company, which is a valid body corporate, is in a large part the same and represents the same property and franchises.

Respondent is further informed and believes, and so states, that if the act under which it is claimed that said Alabama and Chattanooga Railroad Company is a valid law, still respondent in like manner
1517 states that said act in its several provisions was never complied with so as to authorize the Wills Valley Railroad Company to change its corporate name to that of the Alabama and Chattanooga Railroad Company, or to do and perform the other acts under said law that are essential to the organization of said Alabama and Chattanooga Railroad Company.

And respondent admits that notwithstanding said Alabama and Chattanooga Railroad Company is not and was not a body corporate under the laws of Alabama at the time of the execution of the first and second mortgages in said bill of complaint mentioned, still said mortgages are valid and binding on said company, and in equity are a valid lien on the larger part of the property of the Wills Valley Railroad Company.

This respondent, further answering, denies that all of the first or second-mortgage bonds issued by said railroad company are valid as against the creditors of said company, but he insists that as much
1518 as five hundred of said first-mortgage bonds and as much as one thousand of said second-mortgage bonds were issued without consideration good and valid in law or conscience, and said bonds are now held and owned by the person' to whom the same were issued, and who are large owners of stock in said Alabama and Chattanooga Railroad Company, and who have been actively engaged as directors, officers, or agents of said company and in its management. Amongst said persons so holding said bonds, respondent is informed and believes, and so states, that John C. Stanton, and Daniel N. Stanton, and Seth Adams, and Lewis Rice are the chiefs, and others are concerned with them in the ownership of said bonds whose names are unknown to respondent.

Respondent upon like information and belief denies that said Alabama and Chattanooga Railroad Company was ever declared a bankrupt in any valid proceeding in the district court for the middle district
1519 of Alabama. Such a proceeding was begun in said court, before Hon. William B. Woods, one of the circuit judges of the United States, and afterwards the same was conducted to a decree of bankruptcy before Hon. Richard Busteed, judge of the district court of Alabama, but respondent is advised and believes, and so states, that said proceedings were not commenced or conducted in such manner that the jurisdiction of said honorable district court did or could attach, and that the whole of said proceeding is coram non judice and void.

And so in like manner and for said causes, and for other good causes apparent of record in said proceeding, respondent states, on like advice, information, and belief, that the decree of said district court, ordering the property and franchises of the Alabama and Chattanooga Railroad

Company to be sold free of the encumbrance of the second mortgage above mentioned, was and is void, and that the sale of said property,
1520 and the purchase thereof by the governor of Alabama, is also void.

And further, that said governor had no right to bid or to pay any cash for said property at said sale, either under said decree or under the laws of Alabama.

And respondent denies, on like advice, information, and belief, that the State of Alabama is or was ever liable on the endorsement of its governor made on the first-mortgage bonds of the Alabama and Chattanooga Railroad Company, because the law under which such endorsement was made was unconstitutional and void, and also because the Alabama and Chattanooga Railroad Company was never a body corporate under said laws of Alabama, and because the terms and conditions prescribed in said laws were never complied with in such manner as to authorize said governor to make such endorsements on said bonds.

And so, upon advice of counsel and upon information and belief, this respondent denies that the governor of Alabama ever had the right or authority in law to seize the said road and appurtenance
1521 and property of said railroad company in the manner correctly stated in the bill of complaint, in which he did seize and hold the same. And respondent states as another reason why said governor had no right so to seize said property of said company, the fact that the State of Alabama, through its legislature and executive departments, has wholly repudiated and disowned all liability for principal and interest due or to fall due on about five hundred of the first-mortgage bonds of said company, described in the bill filed in said cause, and having so repudiated and disowned said liability, and said company being liable to the holders of said bonds, the trustees in said first and second mortgages had the right superior to the right of the State of Alabama to take possession of said railroad and other property under the powers conferred, in said mortgages, upon the trustees therein named and provided for.

Respondent states that he is the holder and owner of five of said second-mortgage bonds, each for the sum of one thousand dollars;
1522 and that said bonds were issued by said railroad company in good faith and upon a valid and valuable consideration, and he claims that the trustees in said second mortgage owe him the duty of protecting the property of said railroad company by said mortgage covered, but said trustees have not come forward to protect respondent, but, on the contrary, connive at and do not resist by appeal to the courts the power of the State to take said property and to place it beyond the reach of said trustees and said bondholders.

And having fully answered, respondent asks leave of the court to file a cross-bill in this cause, or an original bill in the nature of a cross-bill, to protect his rights and interests in the premises, and that he be allowed to participate in such relief as may be granted to the complainants in this cause, to the extent that may be necessary to protect his rights in the premises.

(S'gn'd) MORGAN & LAPSLEY, AND
BOYLES & OVERALL,
Solicitors for Respondent.

1523 In the circuit court of the United States for the 5th circuit southern district of Alabama.

This day personally came before the undersigned, W. B. Smith, United States commissioner, Charles B. Wallace, the defendant named

in the foregoing answer, and, being by me duly sworn, states on oath that the matters and things stated in said answer when stated of his own knowledge are true, and when stated on information and belief he believes the same to be true, as stated in said answer.

(S'gn'd) CHAS. B. WALLACE.

Subscribed and sworn to before me this 10th day of February, A. D. 1873.

[SEAL.] (S'gn'd) W. B. SMITH,
U. S. Commissioner.

Filed February 14th, 1873.
(S'gn'd) N. W. TRIMBLE,
Clerk.

1524 *Cross-bill.*

To the honorable the judges of the circuit court for the fifth judicial circuit, sitting in equity for the southern district of Alabama at Mobile:

Charles B. Wallace, a citizen of the State of Georgia, by leave of the court exhibits this his cross-bill against The Alabama and Chattanooga Railroad Company and John C. Stanton, Francis B. Loomis and Seth Adams, and Lewis Rice, A. C. Lippit and Daniel N. Stanton, and Charles Walsh, and William T. Wofford, and John F. Bailey, and John H. Gindrat, and Samuel B. Jones, and claims the relief herein prayed for himself and such other persons, being holders and owners of the second-mortgage bonds of the Alabama and Chattanooga Railroad Company, as may be entitled to come in, and as shall so come in and contribute to the expense of this cross-bill.

1525 And the said Charles B. Wallace, humbly complaining, sheweth unto your honors, that on the 30th May, 1872, the said John C. Stanton, Seth Adams, and Francis B. Loomis exhibited and filed their bill in equity in the circuit court of the United States for the southern district of Alabama against all the other persons above named except this complainant. That by said bill the complainants therein seek to enforce against the Alabama and Chattanooga Railroad Company a first mortgage executed by said company on the 19th day of December, 1868, a copy of which mortgage is attached to this cross-bill, and is made a part hereof, Exhibit A.

Orator also refers to said original bill on file in said court for the other statements, averments, allegations, and charges therein contained, to show more fully and particularly all there is claimed by the complainants therein, in furtherance of the general purpose of said bill of complaint above stated.

1526 Orator further sheweth unto your honor that said Alabama and Chattanooga Railroad Company on said nineteenth of December, 1868, executed and delivered to Samuel A. Carlton, Lewis Rice, and Robert Treat Paine, junior, trustees, a mortgage and trust-deed called a second mortgage and trust-deed, a copy of which is attached to this cross-bill and is made a part thereof, and is marked "Exhibit B." The acts of the legislature of Alabama and the resolutions of the directors of said railroad company under which said last-mentioned deed of trust was made and delivered are therein truly and correctly recited and referred to.

Under said deed, and under the resolutions of said board of directors,

as therein recited and referred to, said Alabama and Chattanooga Railroad Company caused to be issued its second-mortgage bonds, to the amount of more than two million of dollars, each bond being
1527 of the denomination of one thousand dollars, and all said bonds were dated as made on the 4th day of January, 1869, and payable on the first day of January, 1889, with interest at the rate of eight per cent. per annum, payable semi-annually, upon warrants annexed to each bond, as is fully recited in said mortgage-deed of trust.

Some of said bonds were issued and disposed of by said company, honestly and in good faith, and upon good and valuable consideration, fully paid up, at and before the time said bonds were issued.

Orator is the owner of five of said bonds, bearing the following numbers, viz: 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, which were so issued and delivered by said railroad company, and which were duly authenticated by two of the trustees in said mortgage-deed of trust, and were duly signed by the president of said company, for and in behalf of the company, and said bonds were prepared by the treasurer of
1528 said company and were signed by him.

Others of the bonds so issued by said company, as orator is informed and believes and so states, were not issued in good faith, nor upon honest and valuable consideration, but how many of them were so issued orator does not know.

Orator charges, on like information and belief, that John C. Stanton, Seth Adams, and Francis B. Loomis, the complainants in said original bill filed in this cause, and Lewis Rice and D. N. Stanton, defendants in said bill, are each holders and claimants of some large amounts of said second-mortgage bonds so issued without consideration, and are each large stockholders, or otherwise largely interested in the property of said company, and are now or have been actively concerned in the management of the said company, as directors or agents or officers thereof, and that, by reason of their power and influence thus
1529 acquired, they have unjustly procured said bonds to be issued to them, in fraud of the rights of orator and other bona-fide holders of said second-mortgage bonds.

And orator charges, upon like information and belief, that said persons last above named, or some of them, are also the holders of five hundred of the bonds of said company, called the first-mortgage bonds, on which the State of Alabama has refused to pay interest, and has refused to recognize or to be bound by its endorsement or guarantee placed thereon by William H. Smith, its former governor, and he charges that they are not in the hands of said persons a prior lien or incumbrance upon the property of said railroad company as against the lien secured in form of the bonds held by orators, by said second mortgage and deed of trust.

1530 Orator further showeth unto your honor that the stock in the Alabama and Chattanooga Railroad Company is owned in large part by the said persons last above named, (who also own nearly the entire stock in the Wills Valley Railroad Company,) and there are few, if any, other persons interested in the stock of said Alabama and Chattanooga Railroad Company, and the president and directors of said company and its other official members have had almost the only voice and authority in the management of the affairs of said company, so that bonds and mortgages issued and executed by them are obligatory upon said company as a joint-stock company, whether it has valid corporate powers or not, and if the charter of said company under the laws of Alabama is invalid, still said bonds and

mortgages, so far as they are honestly issued and executed, are valid in favor of those who hold said bonds in good faith.

1531 But orator, upon advice of his counsel, and upon information which he believes to be true, states and charges that the Alabama and Chattanooga Railroad Company is not now and never was a valid body corporate under and by virtue of the laws of Alabama. On the contrary, he avers and charges that said supposed corporation has its alleged corporate existence alone in virtue of a special act of the legislature of Alabama, passed and approved on the 17th November, 1868, which act upon its face is in violation of section 1 of article XIII of the constitution of Alabama, which is as follows: "Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes."

Orator refers to said special act, as part of this bill, and hereto attaches a copy of the same, marked "Exhibit C." Orator states

1532 that said Alabama and Chattanooga Railroad Company had no actual or corporate existence before the date of the approval of said act and was never before that time actually organized, nor was it organized until many days after said act was approved by the governor of Alabama.

Orator, on like information and belief, states that the Wills Valley Railroad Company, mentioned in said act, did not comply with the essential conditions named in said act, as precedent, before said pretended change of its name to that of the Alabama and Chattanooga Railroad Company, nor has it ever in fact complied with said conditions, in this, that said Wills Valley Railroad Company never in fact acquired the property and franchise of the Northeast and Southwest Railroad Company, as provided for in the 6th section of said act of 17th November, 1868.

Orator is informed and believes, and so states, that the stock-

1533 holders of said Northeast and Southwest Railroad Company never consented or agreed to the sale or transfer of the franchise or property of said corporation, but that many of them were not even consulted in making whatever transfer or sale of the same is set up by said Alabama and Chattanooga Railroad Company, and still own and claim their stock in said company, and orator charges that if said act of 17th November is valid as a law, its terms were never complied with in the matter above stated.

Orator in like manner states that said Northeast and Southwest Railroad Company owed debts to many persons, which were due on the 17th November, 1868, and still remain unpaid, and that a large sum of such indebtedness, amounting to more than thirty thousand dollars, is in the shape of bonds issued by said company and are secured by mortgages duly executed and delivered by said company, which, as

1534 orator is informed, are of prior date and superior lien to any mortgage the State of Alabama ever held upon the property and franchises of said railroad company.

Orator further states and charges that a sale was made of the property and franchises of said railroad company, as set forth and provided for in the first section of said act of 17th November, 1868, soon after said act was passed, and at said sale the Wills Valley Railroad Company became the purchaser of all that was then and there so sold, at the price of dollars, it being the sum of principal and interest due the State of Alabama on a loan to said company of part of the three per cent. fund, under the provisions of an act of the legislature of Alabama, approved February 18, 1860, by which two hundred and eighteen thou-

sand dollars of said fund was loaned to said Northeast and South-
1535 west Railroad Company at six per cent. per annum interest, to be repaid in five years.

And orator further states that one W. A. C. Jones, who claimed to have large debts against said Northeast and Southwest Railroad Company, and to own a large part of the stock of said company, and other persons so in like manner interested, agreed with John C. Stanton, long before said sale was made under the mortgage to the State of Alabama, that said railroad and its franchises and property should be sold under said mortgage and should be purchased for said Wills Valley Railroad Company by said Stanton or some other person concerned in interest with him, and paid for with the second-mortgage bonds of said Alabama and Chattanooga Railroad Company, and by the procurement of said persons said first and second sections of said act of November 17, 1868,
was passed, in fraud of the rights of said company and the other
1536 creditors and stockholders thereof, and it was agreed between the persons so concerned and the governor of Alabama, or other agent of said State, before said sale was made, that said governor would receive, under said act, said second-mortgage bonds of said Alabama and Chattanooga Railroad Company in payment of the sum that should be bid at said mortgage-sale, and it was further agreed that said railroad and franchises and property of said company should bring at said sale no more than the amount due on the loan of said three per cent. fund, and that if said property and franchise should bring more at said sale, the same should not be paid, but should go to said Stanton or said railroad company, and at said sale said property and franchise was bid off for said Wills Valley Railroad Company at the exact sum due to the
State of Alabama of principal and interest for the loan of said
1537 three per cent. fund, and said bid was afterwards paid in the second-mortgage bonds of said Alabama and Chattanooga Railroad Company, all which actings and doings were fraudulent and against public policy, and were and are void as to said Northeast and Southwest Alabama Railroad Company and its stockholders and creditors who were not parties to said transactions, and so said Wills Valley Railroad Company never acquired the property and franchises of said Northeast and Southwest Alabama Railroad Company, and so the said Wills Valley Railroad Company never had the right to change its name to the Alabama and Chattanooga Railroad Company, nor to organize under said corporate name or to elect directors thereof, nor to do any of the other acts required by said law, if it be a valid law, to be performed in the organization of said Alabama and Chattanooga Railroad Company.

1538 And orator charges that there is not now, and has never been heretofore, in the State of Alabama, any valid corporation under the name of the Alabama and Chattanooga Railroad Company, and he charges that the Northeast and Southwest Alabama Railroad Company is still a valid and subsisting corporation and still owns a large part of the property claimed by the complainants in the original bill as belonging to the Alabama and Chattanooga Railroad Company.

Orator further states that, under said first-mortgage and deed of trust of the Alabama and Chattanooga Railroad Company, bonds were issued by said company to the amount of five million two hundred and twenty thousand dollars, and said bonds were endorsed in the name of the State of Alabama, by its then governor, in the form set forth in Exhibit
B to the original bill filed in this cause.

1539 Orators charge that in fact, as it appears from said endorse

ments, the same were made under the authority of said act of November 17th, 1868; and he charges that the seventh section of said act, under which said supposed authority is derived, is unconstitutional and void, in this, that said seventh section of said act was not passed by a vote of two-thirds of the members of each house, or of either house of the general assembly of Alabama, on a call of the ayes and noes, and recorded in the journals of said houses; and also in this, that the Alabama and Chattanooga Railroad Company was not in legal existence when said act was passed and approved, and it had no actual, legal, or pretended existence until many days after said 17th November, 1868, and the legislature of Alabama had no constitutional power by a special act to grant to said company a loan of the money or credit
1540 of the State of Alabama, nor to give the guarantee or endorsement of the State to the bonds or other obligations or undertakings of said corporation; and for this, that in and by said act it was left to the judgment and discretion of the governor of Alabama to determine what corporation should at a future day own the franchise of the Northeast and Southwest Railroad Company, and on the ascertainment of that fact to give the endorsement to such corporation, which is contrary to the constitution of Alabama; and for this, that the conditions prescribed by the 7th section of said act had not been complied with by the Wills Valley Railroad Company, nor by the Alabama and Chattanooga Railroad Company, when the governor of Alabama put said endorsements on said bonds; twenty miles of said railroad had not been finished, equipped and completed in the manner required
1541 by law, from Meridian in Mississippi, when said endorsements were so made on said bonds, and neither the Wills Valley Railroad Company, nor the Alabama and Chattanooga Railroad Company, nor any other company had given any guarantee to the State or to the governor, before such endorsements were made on said bonds, that said railroad would be finished and equipped within a reasonable time, or that said railroad and bridges should be of the class and grade known as first class.

Orator is also informed and believes, and so states, that no of part said act of the 17th November, 1868, was passed by a two-thirds vote of both houses of the general assembly of Alabama upon a call of the ayes and noes, recorded in the journals of each house, and said act is therefore contrary to the constitution of the State of Alabama, in so far as it authorizes the governor of Alabama to endorse the bonds of
1542 the Alabama and Chattanooga Railroad Company.

Orator further showeth unto your honors that, on the 22nd September, 1868, an act was passed by the general assembly of the State of Alabama, which, in a proviso to the first section thereof, confined the right of railroad companies to have their bonds endorsed upon that part of their lines built and equipped outside the limits of the State to the Wills Valley Railroad Company.

Orator further states that a large part of the Alabama and Chattanooga Railroad, within the State of Alabama, was never finished and equipped in the mode required by law, so as to entitle the said railroad company to have its bonds endorsed by the governor, under the laws of this State; but said parts of said railroad, extending over forty or fifty miles or more of said line in Alabama, was built in a temporary
1543 manner, and so imperfectly that it was notorious to all who chose to make enquiry that the laws of Alabama had not been complied with in the construction thereof, so as to entitle said railroad company to have its bonds endorsed under said statutes.

And orator further states that the governor of Alabama, either by his own connivance, or through a gross fraud practiced on him by the officers or agents of the Alabama and Chattanooga Railroad Company, did endorse bonds for said company to an amount greatly exceeding sixteen thousand dollars per mile for that part of the railroad in Alabama, and that part of the road for which said governor could have endorsed such bonds.

Orator further showeth unto your honors that said bonds so endorsed are in part held by members of, or directors or stockholders in, said Alabama and Chattanooga Railroad Company, as orator is in-
1544 formed and believes, and so states, and others of said bonds were placed with or sold by said company to persons who had notice of the fraud in the issue of said bonds, and who still own or control said bonds.

Orator further states that the State of Alabama, through its legislature and the action of its governor, has repudiated five hundred of said bonds and has refused to pay interest on the same.

Orator further states that the State of Alabama, through its governor, has paid the interest on the residue of said endorsed bonds that fell due within one year from the date of the issue thereof, but has failed to pay the interest on any of said bonds that fell due after that time; as orator is informed and believes, and so states, said interest was paid because said railroad company had failed to pay the same, but orator charges that the State of Alabama was never bound to pay the same.

1545 After said judgment was so made by the State the governor of Alabama, acting under the provisions of the statutes of said State relating to the subject, appointed John H. Gindrat, the agent of the State, to take said railroad and all the property of said railroad company into his possession, and to work and control and operate said railroad under the provisions of said statutes, and said John H. Gindrat, acting in said capacity, did seize and take into his possession said railroad and all the property of said company in Alabama, about the day of July, 1871, and held the same in that character until about the 6th day of November, 1871, when, with the connivance and consent of the then governor of Alabama, he became one of the custodians of the court of bankruptcy to hold said property, to be surrendered to the assignees in bankruptcy of said company whenever said bankrupt
546 court should so order him to surrender the same.

Orator further states that while said property and franchises of said Alabama and Chattanooga Railroad Company were so held by said agent of the State, about the day of proceedings in involuntary bankruptcy were commenced in the district court of the United States for the middle district of Alabama against said company, on the petition of one W. A. C. Jones.

Orator charges, on information which he believes to be true, that said proceedings were commenced or conducted at the instigation and request of the then governor of Alabama, and on a pledge or promise made by him, or by his authority, to said W. A. C. Jones, that he should be paid his debt on which said petition was based, and that he should have some security for the payment of certain second-mortgage
1547 bonds which he held against said Alabama and Chattanooga Railroad Company; and said promises were so made to induce said Jones to bring said suit, it being well known and understood that, in the due and lawful administration of the estate of said railroad com-

pany in bankruptcy, said Jones had no hope or reasonable expectations that he would ever receive anything on either of his said debts.

And orator charges, on like information and belief, that said understanding has continued to attend and to inspire the conduct of said governor and the agents of the State in that behalf so long as said governor continued in office, and during all the proceedings in said cause, until January, 1873.

Orator, in like manner, on information and belief, states and charges that the said John H. Gindrat and the governor of Alabama, well knowing that said bankrupt court had no authority to interfere with
1548 any lawful possession or control the State of Alabama had or held of said property, and regardless of the duties and obligations imposed on them by the statutes of Alabama, which statutes also embodied a contract between said State and said railroad company and its bondholders, wilfully and without just cause or excuse, abandoned the possession and control of said railroad and property into the possession of the said John H. Gindrat and one John F. Bailey, first as custodians of said property by appointment of said court of bankruptcy, and afterwards into the possession of said John H. Gindrat and John F. Bailey and one Samuel B. Jones, who were appointed assignees in bankruptcy of said railroad company, as a bankrupt corporation.

Orator charges that while said railroad and other property was
1549 in the hands of the agent of said State, it was held in trust for said company and for all other creditors of said company having mortgage liens on the same, and also for all other creditors; and said agent or governor of Alabama had no right, power, or authority to abandon or resign said trust, but was bound in good faith to maintain the same, and the State of Alabama is liable to said company and its lien-creditors to account for the rents and profits of said property from the day it was seized until the present time, which rents and profits are worth a large sum per annum.

Upon the best information he can obtain, and upon belief, orator states and charges that the said railroad and property, discre'tely and properly managed during the time it has been in the possession of the State, and during the time that the State ought to have retained the possession thereof, would have yielded above current expenses and re-
1550 pairs enough gain and profit to have paid the interest annually upon said endorsed bonds.

But in the hands of said agent of the State and of said custodians, and of said assignees, said railroad has been greatly damaged by negligent management so that its intrinsic value has been reduced at least one-fourth, and a great amount of valuable property of a moveable and perishable nature has been wasted, destroyed, sold, and purloined by operators and strangers through the gross negligence of said agent of the State and said custodians and assignees, the value of which orator states, on information and belief, exceeds three hundred thousand dollars, for which said State is justly liable to account.

And orator charges that, upon a fair accounting between the State of Alabama and said railroad company for such rents and profits as were and ought to have been realized by it, and for the damages
1551 so sustained through the wrongful acts and conduct of its agents, the said State has no just demand remaining against said railroad company for any interest it has paid or any interest that is due and unpaid upon said endorsed bonds if said State is bound upon said endorsements.

Orator further showeth unto your honor that he is advised by coun-

sel, and states on information and belief, that said district court of the United States for the middle district of Alabama, or the judge presiding in bankruptcy in said court had no jurisdiction to adjudge and decree the said Alabama and Chattanooga Railroad Company a bankrupt in an involuntary proceeding against said company, because said company was so proceeded against in said court as a corporation under the laws of Alabama, whereas the supposed act of incorporation was void under the constitution of Alabama, and, because, at the time the
1552 rule to show cause was granted in said proceeding, no petition in said cause had been filed in the clerk's office of said district court, as is shown by the decree or order of the honorable judge who granted such rule to show cause against said railroad company, and because the order requiring the publication of notice of the said proceeding, and of the time and place where the defendant therein was required to appear and show cause against said petition was not made in accordance with the statute in such case made and provided and the rules of court in that behalf, and there was no other notice of said proceeding given to the said railroad company; and because said order for publication of notice of said proceedings and of said rule to show cause was made by the honorable William B. Woods, one of the circuit judges of the United States, who then, as orator is advised by his coun-
1553 sel, had no jurisdiction to make such order or any order in said cause which was being conducted in the middle district of Alabama, and that said circuit judge made said order of publication to take effect only in the event that the marshal should return that he could not effect personal service of the rule upon the defendant or its proper agent or officer, and when such conditional order was so made said circuit judge did not know and could not know that the judge of the district court of the United States for said State of Alabama, would not be present in said middle district to conduct said proceedings and to make orders touching the service of said rule to show cause.

And orator states that said Alabama and Chattanooga Railroad Company did not appear to answer said petition, and it was thereupon adjudged a bankrupt upon its default.

Orator further showeth unto your honors that, on or about
1554 the 17th day of February, 1872, John F. Bailey, John H. Gindrat, and Samuel B. Jones, the persons who were appointed the assignees in bankruptcy of said Alabama and Chattanooga Railroad Company, filed a petition in said district court in bankruptcy for the middle district of Alabama, praying for the sale of the railroad and rolling-stock, and other property appurtenant to said railroad, free of the incumbrance of the second mortgage given upon said property by said railroad company. A copy of said petition is hereto attached, and is made a part of this cross-bill; is marked "Exhibit A;" and Exhibits B and C, hereto attached, are also parts of said petition.

Orator never had any notice of the pendency of said petition, and he does not know whether the other persons named as defendants therein had any notice of the same; nor did he ever have notice that the
1555 trustees in said second mortgage had resigned, nor that Seth Adams, F. B. Loomis, and J. C. Stanton had been appointed trustees in said second mortgage, as is alleged in said petition. And orator states, on information which he believes to be true, that neither Seth Adams, nor John C. Stanton, nor F. B. Loomis were ever trustees in said second mortgage. Said persons were made trustees by some process of substitution for the original trustees in the first mortgage executed by said company, but not in the second mortgage, as orator

is informed and believes, and so states; and as such trustees in the first mortgage, and also as bondholders under said first mortgage, the interests of said persons is, and was when said petition was filed, and when it was heard, adverse to orator and the other holders of the second-mortgage bonds; and so orator avers and charges that the proper parties were not made in said petition to protect the interests of the
1556 owners of the second-mortgage bonds, and said decree is of no force or validity against orator.

Orator is also advised by his counsel, and on information and belief states, that the matters set forth in said petition, and the prayer thereof are not sufficient in law to authorize the said court of bankruptcy to order the sale of the property therein described free of the encumbrance of said second mortgage, and that said court of bankruptcy, on said petition, had no power or authority to order said property to be sold free of the incumbrance of said mortgage, and leave it subject to the incumbrance of the first mortgage, and the other prior liens mentioned in said petition; and orator charges that a sale, so ordered to be made, was necessarily detrimental to the rights and interest of the holders of the second-mortgage bonds.

Orator further states that said district court for the middle
1557 district of Alabama proceeded to hear said petition, and to allow the prayer thereof, and to order a sale of the property therein mentioned on or about the 13th day of March, 1872; a copy of said decree is hereto attached and is marked "Exhibit D."

Said property, mentioned in said decree, was sold under the restrictions and qualifications therein prescribed by said assignees, on the 22nd day of April, 1872, in the city of Montgomery, to the highest bidder for cash, and the same was purchased by an agent of the State of Alabama, for said State, at the sum of three hundred and twelve thousand dollars.

Orator further states, on information and belief, that said sale and purchase of said property was made under an agreement or understanding between said assignees in bankruptcy, and said W. A. C. Jones, the petitioning creditor in said bankrupt proceedings, and
1558 the then governor of Alabama, that said property should be purchased for the State of Alabama; and that thereby said second-mortgage bondholders would be defeated of all chance or hope of realizing anything on their bonds through the future increased value of said mortgaged property, and in order to cut them off from all right to question the conduct of the agents of the State in their dealings with said trust-estate; and said proceedings resulting in said sale were oppressive and unjust towards orator and the other bona-fide holders of said second-mortgage bonds; and the State of Alabama, in virtue of said purchase, claims to have all the title which said alleged bankrupt corporation ever had to said property and franchises, and is about to sell and deliver the same to a number of persons, called an English company, none of whose names are known to orator.

1559 Orator charges that said sale was made without authority of law, and the sum bid for said property is wholly disproportioned to its value. In said petition said assignees allege that said property is worth more than all the incumbrances resting on it.

Orator further states that, after sale was made, one hundred thousand dollars or thereabouts was paid by the governor of Alabama, but the balance of the sum bid by him still remains unpaid. Of said sum so paid in the larger part has been disbursed by the assignees in attorneys' fees, and in commissions claimed by themselves, and other costs and ex-

penses, so that little or nothing remains to the creditors. And by reason of the non-payment by the State of the remaining two hundred and twelve thousand dollars, the district court for the middle district of
1560 Alabama, at a term held in January 1873, ordered a resale of said property, to be made in thirty days from the date of said order, but allowed to the State the privilege of paying the balance due on its bid within that time.

Orator has not seen any advertizement of said sale, but it will take place, if made, about the 20th of February, 1873.

Orator charges that said order of sale gives to the State of Alabama a power over the estate of said alleged bankrupt, which is oppressive and unjust towards orator; said State under its alleged statutory lien on the property and franchises of said railroad company, and also under the provisions and concessions of the first mortgage, claims the right to immediate possession of said railroad, and all the property said company owns, including its franchises, and by said decree or order of sale all of said claims so set up by the State are preserved and respected; but if orator or the other beneficiaries of the second mortgage
1561 purchase the property, the order under which the sale is made prevents them from getting any possession of the property, or from deriving any benefit from it so long as the State claims its prior lien; and orator submits that under such decree of sale the value of the security furnished by said second mortgage is wholly dependent on the price that the State of Alabama cho'ses to pay for said property.

Orator further showeth unto your honors, that he has not proven his debt against the alleged bankrupt estate of the Alabama and Chattanooga Railroad Company; said debt being secured by a mortgage, orator could not prove the same without surrendering his security, and none of the trustees in said second mortgage, whose duty it is to protect said trust-estate, have been made parties defendant in said petition for the sale of said property in said bankrupt court, so that ora-
1562 tor has had no sufficient opportunity to appear or to resist said petition in said court.

Orator further states that, by an act of the legislature of Alabama, approved March 8, 1871, it being numbered 16, the State of Alabama has disavowed all of said endorsements on said first-mortgage bonds that had not been sold to innocent bona-fide holders prior to the 1st day of January, 1871, or any bonds that are in the hands of any incorporator of said railroad company, no matter how innocently held; and under the terms and provisions of said act, the governor of Alabama has disavowed and repudiated the liability of said State on about five hundred of said bonds; and orator charges that after such disavowal, the said State or its governor has no right to assert any lien on said railroad or other property of said company by virtue of its stat-
1563 utes in such cases provided, and had not and still has not any right to seize said railroad and other property under said statutes; and the seizure thereof by the agents of the State is a breach of the contract of the State with said railroad company embraced in said statutes; and neither this honorable court nor the said bankrupt court is bound to respect the rights of said State so claimed by its governor and agents.

The premises considered, your orator prays your honor for process of subpœna, or for an order of appearance as against each of the persons against whom this cross-bill is exhibited, and that they be required to appear and plead, answer, or demur to this cross-bill within a time to be prescribed.

Orator states that the residence of each of said parties is correctly stated in the original bill filed in this cause.

1564 Orator prays that your honors will declare that the said Alabama and Chattanooga Railroad Company is not a body corporate chartered by law in the State of Alabama, but is a joint-stock company without charter, and that the first and second mortgages executed by the agents of said company in its alleged corporate name be upheld as valid mortgages executed by said company, and that they be enforced.

That the proceedings and decrees in bankruptcy against said alleged corporation be held for naught; that the endorsement placed on the first-mortgage bonds of said company by the governor of Alabama be held for naught; and that it be declared that the State is under no liability by means thereof, and has no lien and no rights or interest in, to, or upon the property of said company by virtue of such endorsement of said bonds.

1565 That said mortgages be upheld as valid securities for the benefit of such persons as are bona-fide owners of the bonds of said company, and that their respective rights and priorities be determined and settled by the decree of this honorable court; that an account be taken of the sums justly due to the owners of the bonds secured by each of said mortgages, and of the property rightfully belonging to said company and conveyed in said mortgages.

That said John H. Gindrat and John F. Bailey and Samuel B. Jones be held to account for the rents and profits of said railroad and its machinery, cars, and appurtenances, while the same was held in their possession or under their control, and also for the value of all the property of said company that came into their possession, and was, while so controlled by them, lost, destroyed, or wasted or damaged.

1566 That if said company is held to be a body corporate, and if said endorsement of its bonds by the State of Alabama be held valid, that an account be taken of the value of the rents and profits of said railroad and other property seized by the State during the time since the State took possession thereof, and also of all property of said railroad company so seized by the State which has been lost, wasted, or damaged by the neglect or carelessness of its agents, and that said sum be declared pro tanto a satisfaction of the claim or demand of the State for interest paid by it for said company, or still due and owing, but unpaid.

And if said bankrupt proceedings are not set aside, that your honors will revise and set aside or annul and hold for naught said order of said district court sitting in bankruptcy for the sale of the property and franchises of said railroad company, and will enjoin further pro-

1567 ceedings under said order of sale.

That your honors will continue to hold the property of said railroad company in the hands of receivers appointed by this honorable court, and will continue to direct and control them in the administration thereof. And that your honors will decree, when a sale of said property becomes necessary and advantageous to all concerned, that the proceeds thereof be brought into court and paid to the parties entitled thereto.

And if in anything your orator has omitted to ask proper relief, he prays for all such other and further and general relief as in equity and good conscience he may be entitled.

MORGAN & LAPSLEY,
BOYLES & OVERALL,
Solicitors for Complainant.

1568 THE STATE OF GEORGIA, *County:*

This day came before the undersigned, W. B. Smith, U. S. commissioner, Charles B. Wallace, who, being duly sworn, deposeth and saith that he is the complainant in the foregoing cross-bill named, and has read the same, and knows the contents thereof; that said bill is true of his own knowledge, except as to those matters which are therein stated to be on his information and belief, and as to those he believes it to be true.

CHAS. B. WALLACE.

Sworn to before me this day of February, 1873.

{SEAL OF U. S. COMMISSIONER NORTHERN DISTR'CT OF GEORGIA.}

W. B. SMITH,
U. S. Commissioner.

1569 In the district court of the United States for the middle district of Alabama, at Montgomery, Alabama.

IN THE MATTER OF THE ALABAMA AND CHATtanooga Railroad Company, a bankrupt corporation. } In bankruptcy.

Whereas John F. Bailey, John H. Gindrat, and Samuel B. Jones, assignees in bankruptcy of the estate of said bankrupt, have filed in said court their petition, duly verified, in the words and figures following, namely:

In the district court of the United States for the middle district of Alabama, at Montgomery, in said district.

IN THE MATTER OF THE ALABAMA AND CHATtanooga Railroad Company, a bankrupt corporation. } In bankruptcy.

To the honorable Richard Busteed, judge of said district court:

John F. Bailey, John H. Gindrat, and Samuel B. Jones, as-
1570 signees of the estate of said bankrupt, respectfully represent that a certain portion of said bankrupt's estate, namely, all and singular its railroad lying, being, and extending from its terminus at Wauhatchie, in the State of Tennessee, to and through Dade County, in the State of Georgia, and in a general southwestwardly direction through the State of Alabama, running through the counties of DeKalb, Etowah, St. Clair, Jefferson, Shelby, Tuskaloosa, Hale, Greene, and Sumter, in said State, to the State line of the State of Mississippi, and thence to its western terminus at Meridian, in the State of Mississippi, and all its franchises, equipments, property, and all depots, tenements, buildings, land-fixtures, road-bed, easements, machine-shops, machinery, engines, cars, car-houses, rolling-stock, goods, chattels, and personal property connected with or used in the running and operating of said
1571 railway, or appurtenant thereto, and all its rails, ties, fences, erections, and all its rights of way, tools, including all the property between said terminal points, and every other species of property used in the construction or operation of said road, is subject to a first mortgage or deed of trust, made on the 19th day of December, 1868, by and between the said Alabama and Chattanooga Railroad Company of the first part, and Seth Adams, Francis Dane, and John Demeritt, trus-

tees, parties of the second part, to secure the payment of the principal and interest of the first-mortgage bonds issued by said railroad company, and endorsed by the State of Alabama. A copy of said mortgage is hereto annexed marked "Exhibit A," and prayed to be taken as a part of this petition.

Your petitioners further represent that said railroad company
1572 did, on the said 19th day of December, 1868, execute a second mortgage or deed of trust S. J. Carlton, Lewis Rice, and Robert Treat Paine, as trustees, to secure the payment of the principal and interest of the second-mortgage bonds issued by said railroad company, and said mortgage or deed of trust conveyed precisely the same property in all respects that was embraced in the first mortgage or deed of trust. A copy of said second mortgage or deed of trust is hereto annexed, marked "Exhibit B," and prayed to be taken as part of this petition.

Your petitioners further represent that they are informed and believe, and upon such information and belief so state, that said railroad company did, on the 17th day of March, 1871, execute a third mortgage or deed of trust upon the property aforesaid, which recites that it is made to secure the payment of the principal and interest of the third-mortgage bonds issued by said railroad company. Your petitioners
1573 have never seen said third mortgage or deed of trust, and they have no knowledge or information as to who are the trustees therein, or whether there are trustees or not, and therefore it is not in their power to produce a copy thereof, or to make further statements or allegations in reference thereto.

Your petitioners further represent that they are informed and believe, and upon such information and belief so state, that said railroad company did under said second mortgage or deed of trust issue 2,663 (twenty-six hundred and sixty-three) second-mortgage bonds in the sum each of one thousand dollars; that a portion of said second-mortgage bonds were sold and delivered for value and are now held and owned by innocent and bona-fide holders thereof.

How many of said second-mortgage bonds were so sold and delivered is unknown to your petitioners, and they have no means of ascer-
1574 taining. But petitioners aver and allege that much the larger portion of said second-mortgage bonds are in the possession of and held by the corporators of said railroad company without value or consideration paid therefor, and under mere simulation of ownership, for the purpose of throwing a cloud over the transactions of said company, with the view so to complicate the title as to purchase said road for less than its value. The only holders and owners of said second-mortgage bonds who are known to your petitioners are William A. C. Jones, who resides in the county of Sumter, in the State of Alabama; James W. Sloss, who resides in the county of Limestone, State of Alabama; and A. C. Hargrove, as administrator of the estate of Robert Jemison, jr., deceased, who resides in the county of Tuscaloosa, State of Alabama. There are many other of said second-mortgage bondholders, but they are unknown to your petitioners, and upon information and be-
1575 lief your petitioners allege that they are citizens of other States than the State of Alabama, and are beyond the jurisdiction of this court. They have like interest, however, with the aforesaid second-mortgage bondholders mentioned herein.

Your petitioners further represent, upon information and belief, that if any third-mortgage bonds were ever issued by said railroad company, none of them have ever been negotiated to any one for value, but are yet in the possession of said company. Your petitioners further repre-

sent that according to their best judgment it will be for the interest of the creditors of said estate that said property should be sold subject to said first mortgage or trust-deed, and disincumbered of said second and third mortgages or deeds of trust.

Whereupon they pray that they may be authorized to make sale of said property, free from the liens of said second and third mort-
1576 gages or deeds of trust, but subject to the encumbrance of the said first mortgage or deed of trust aforesaid, in the manner presented by the general order for the sale of property not encumbered.

And your petitioners further represent that they are informed and believe that there is a lien in favor of the State of Georgia on that portion of said railroad which runs through the county of Dade, in said State, to secure the State of Georgia against its liabilities upon its endorsements of the bonds of said company.

Your petitioners state that in their opinion it is best for the interest of the creditors of said bankrupt that that portion of said road so subject to said lien shall be discharged therefrom prior to the sale thereof, and they pray that they may be authorized and empowered to adjust and settle with the State of Georgia its said lien aforesaid.

1577 And your petitioners further represent that in their opinion the said railroad and its property, &c., is worth more than the amount of the aggregate valid liabilities of said company under said several mortgages or deeds of trust.

And your petitioners further represent that they are informed and believe that since the execution of said second mortgage or deed of trust, the said Lewis Rice, S. J. Carlton, and Robert Treat Paine, jr., have ceased to be trustees, and, under a power in said mortgage or trust-deed, Seth Adams, F. B. Loomis, and J. C. Stanton have been substituted and appointed as such trustees, and that Adams, Loomis, and Stanton are citizens of and reside in the city of Boston, in the State of Massachusetts.

(Signed) ELMORE, BROOKS,
O'NEAL & WALKER,
Solicitors for Petitioners.

1578 UNITED STATES OF AMERICA,
Middle District of Alabama:

Before me, Geo. H. Patrick, a commissioner of bail and affidavit in and for said district, personally appeared John F. Bailey, to me well known, who, being duly sworn, deposes and says that the matters and things contained in the foregoing petition are true when stated upon knowledge, and when stated on information and belief, he believes them to be true; and furthermore says not.

(Signed) JOHN F. BAILEY.

Sworn to and subscribed before me, at Montgomery, this 17th day of February, A. D. 1872.

GEO. H. PATRICK,
U. S. Commr. Middle Dist. of Ala.

1579 EXHIBIT A.

First mortgage and trust-deed of the Alabama and Chattanooga Railroad Co.

This indenture, made this 19th day of December, in the year eighteen hundred and sixty-eight, by and between the Alabama and Chattanooga

Railroad company, a corporation of the States of Alabama, Georgia, Mississippi, and Tennessee, the party of the first part, and Seth Adams, Frances Dane, and John Demerett, trustees upon certain trusts, herein specified and provided, the party of the second part.

Whereas by virtue and in pursuance of an act of the general assembly of the State of Alabama, approved Nov'r 17th, 1868, and entitled "An act relating to the Wills Valley Railroad Company and the North-
east and Southwest Alabama Railroad Company," said Wills Val-
1580 ley Railroad Company has changed its name to the Alabama and Chattanooga Railroad Company; and whereas the State of Alabama, by force of the act aforesaid, and of certain other acts of said general assembly, namely, an act Feb. 19th, 1867, entitled "An act to establish a system of internal improvements in the State of Alabama," and an act approved Sept. 22nd, 1868, entitled "An act to amend the law to establish a system of internal improvements in the State of Alabama," has become and is bound to indorse the first-mortgage bonds of the Alabama and Chattanooga Railroad Company upon the terms contained in the aforesaid acts;

And whereas the directors of said railroad company, at a meeting held in the city of Boston on the 2nd day of December, A. D. 1868, voted—

First. That the company construct said their railroad, with a view to the obtainment of the aforesaid indorsement upon their first-
1581 mortgage bonds;

Second. That the company will create, issue, and dispose of, for not less than 90 cents in the dollar, those bonds payable at the National Security Bank of Boston, in the commonwealth of Massachusetts, on the 1st day of January, A. D. 1869, with interest at the rate of eight per cent. per annum, payable semi-annually on the first days of January and July in each year, for one thousand dollars each, and not to exceed at the rate of sixteen thousand dollars per mile of said railroad, and to be dated as made on the first day of January, 1869; that a warrant for each semi-annual payment shall be made and annexed to each bond; that said bonds shall be prepared by the treasurer of the company, and signed by him and the president for and in behalf of the company, and shall have annexed to them a certificate of authentication by two, at least, of the trustees under the mortgage made
1582 to secure them, and shall not be issued or obligatory without a certificate;

Third. That said bonds shall be and recite the fact that they are the first-mortgage bonds issued in accordance with and upon conditions of the act of the general assembly of the State of Alabama, entitled "An act to establish a system of internal improvements in the State of Alabama," and approved Feb. 19th, 1867, and the amendment to said act, approved Sept. 22nd, 1868, and that they shall have priority in favor of the State of Alabama over any and all liens whatever;

Fourth. That the company hereby grants, ratifies, and confirms unto the State of Alabama all the liens, rights, and powers, properties, and privileges which the aforesaid act provides that the State of Alabama shall have and enjoy in reference to said bonds;

1583 Fifth. That for the purpose of securing the payment of the principal and interest of the said bonds of the company make and deliver a mortgage deed of trust, conveying to Seth Adams, Francis Dane, and John Demerett, as trustees, all the railroad franchises, rights, and property hereinafter mentioned, for the security, protection, and benefit of the State of Alabama, in the manner provided by the sev-

eral acts before mentioned, and subject trusts of the holders of said bonds; that said mortgage-deed shall be signed by the president and treasurer for and in behalf of the company, and bear date as made on the day of Dec., A. D. 1868;

And whereas the said company, for the purpose of raising funds *for the purpose of raising funds* for the completion of the construction and equipment of their said railroad, purposes to issue its first-mortgage bonds as above described to an amount not exceeding at the
1584 rate of sixteen thousand dollars per mile of said road, and to obtain the endorsement of them by the State of Alabama in the manner provided in the above-mentioned acts:

Now, therefore, this indenture witnesseth that the said Alabama and Chattanooga Railroad Company, party of the first part, in consideration of one dollar to it in hand paid by the said party of the second part, trustees, and before the ensealing hereof, the payment of which is hereby acknowledged, doth hereby grant, bargain, sell, enfeoff, release, assign, and convey unto the said Seth Adams, Francis Dane, and John Demerett, trustees as aforesaid, party of the second part, and to their successors and assigns, all and singular the entire railroad of the party of the first part lying, being, and extending from its terminus at Chattanooga, in the State of Tennessee, to and through Dade County,
1585 in the State of Georgia, to the State of Alabama, and in a general southwesterly direction through the State of Alabama, passing through the town of York in said State to the State line of the State of Mississippi, and thence to its terminus at Meridian, in said Mississippi, with all its franchises, equipments, tolls, issues, and profits, and all its lands, tenements, buildings, fixtures, machinery, goods, and chattels connected with or used in the running or operating of said railway or appurtenant thereto, and all its rails, ties, and all fencing and erections, and all its rights of way, covenants, and all cars, tools, engines, and all rents, remainders, and reversions of every nature and kind whatever, including all the property between said terminal points, which said party of the first part now has, owns, or possesses, or may hereafter acquire, either in law or in equity, of any kind whatever, appurtenant thereto; also all other like estate, structures,
1586 superstructures, and equipments, and all matters and things pertaining or belonging to all or any of the same that may be hereafter acquired, constructed, or controlled by or belonging to the said party of the first part; and also all other estate, real, personal, or mixed, of any of the foregoing description or of any other kind which may be hereafter acquired by the party of the first part and used or intended to be used in the construction and operation of said railroad: Provided, however, that this grant or conveyance aforesaid shall not include or operate to transfer any railroad lying outside of the aforesaid line of railroad and termini, and which the party of the first part may at any time hereafter acquire, or any property purchased with or used exclusively in connection with the same, or the tools or profits derived therefrom, or any lands which said company now owns or may here-
1587 after acquire, and which are not necessary for the management or operation of said railway or the repair thereof, or for the business of said railroad company; nor shall these presents in any way prohibit the party of the first part from receiving, using, and applying any money or personal property of said company to the repairs of said road or its appurtenances, or to its current expenses, or to the purchase of any necessary machinery or the renewal thereof; and the board of directors of said company may likewise distribute and pay any net annual

incomes and profits to stockholders after paying the interest on any and all of said bonds which said company may owe, and providing for any sinking funds required to be created and kept: To have and to hold the said railway property, interests, rights, and appurtenances mentioned as aforesaid, and hereby conveyed or intended to be con-
1588 veyed by this conveyance to the party of the second part as such trustees aforesaid, and to their successors in said trust, or assigns, to and for the only use, benefit, and behalf of the said trustees and their cestui que trusts, their successors and assigns, forever, and in special trust and confidence *re*pose the following conditions, that is to say:

1st. That this conveyance is for and shall be by the said party of the second part, their successors and assigns, held, used, and owned solely for the benefit and protection and security of the persons and corporations who shall hold and own the bonds about to be issued as aforesaid by the party of the first part, and for enforcing the stipulations of said company as to the said issue of bonds and the disposal thereof and securing the same and the first payment thereof, in their true intent and meaning, whether contained in said bonds or the interest-warrants attached to them, or in this deed.

8 9 2nd. That for the better assuring and conferring the titles and powers of the said party of the second part, their successors and assigns, in the premises and property hereby conveyed, and in and to any premises and property or rights hereafter accruing or to be acquired by the said party of the first part, its successors and assigns, will and shall, as often as shall be lawfully required by the party of the second part, their successors and assigns, holding the above-granted trust, do such acts and make such other and further conveyances and assurances as said party of the second part shall by counsel learned in the law be advised are necessary for the better carrying out of the object of the parties to this mortgage or deed of trust.

3rd. That if the said party of the first part, its successors or assigns, shall well and truly pay to the holders of said bonds, so to be
1590 issued and hereby secured, the respective sums of money and interest due and accruing on said bonds on the days and times therein mentioned, and according to the tenor and effect of said bonds, then and thenceforth this indenture and all the estate hereby granted shall become and be utterly void and of no further effect, and the same shall be by such payment wholly annulled and satisfied without any further receipt or entry of satisfaction of record whatever, but shall be, if required, entered and certified on any record of the same as so satisfied by the party of the second part, or their successors.

4th. That until default shall have been made by the party of the first part in the payment of principal and interest of the said bonds, or some of them, or until default shall have been made in respect to something herein required to be done by the said party of the first part, the said party of the first part shall be suffered and permitted to possess,
1591 use, occupy, manage, and operate the said railroad property, franchise, and appurtenances, and to renew, replace, and repair the same and any part thereof, and take and receive and use the tolls, rents, issues, incomes, and profits thereof, and dispose of the same in any manner not inconsistent with this instrument.

5th. In case default shall be made in the payment of any interest on any of the aforesaid bonds issued or to be issued according to the tenor of the coupons thereto annexed, or according to the conditions hereof, or in case default shall be made in the payment of the principal of said bonds, or any

of them, when the same shall become due, without the consent of the holder of such bonds on which such default shall occur; or in case of any default in the payment of any sums of money hereinafter provided for the sinking-fund, the said party of the first part hereby covenants and agrees to and with the party of the second part and their seccessors and
1592 assigns, that within three months after such default shall have occurred, the same default still continuing, the said party of the first part, on demand of the said trustee or trustees for the time being, shall and will surrender to him or them, or to their agent, the actual possession of the herein granted and demised railway and premises, together with all the books, records, papers, accounts, and money of said company, and all management and control thereof, and that all the expenses of taking, holding, managing, and operating said property, if possession be so taken, shall be paid from the incomes and profits thereof; and if said property shall, after such taking possession thereof, be sold, then from the sale thereof; or such expenses may be paid from the sale of any personal property as the said trustees may deem proper; and that said party of the second part and their successors, having
1593 taken such possession, may manage, operate, and control said road and property and all of its affairs, and appoint all needful agents and employees for that purpose, and pay the same, and receive all the issues, rents, incomes, and profits thereof, and apply the same to the payment of the said interest so in default according to the true intent and meaning and tenor of the said bonds and coupons annexed, and to the terms of this deed, until such default shall have been satisfied, if such incomes and profits will satisfy the same; first paying all expenses of such possession and management, and all taxes, assessments, charges, and prior liens on said property, and a just compensation for their own services as such trustees. But in any and all cases of such taking of possession by said party of the second part and paying up any such default and the expenses aforesaid, the said party of the second
1594 part shall immediately thereafter deliver the said railway and premises, books, records, money, and accounts into the possession of the party of the first part, provided that no such demand shall be made for such possession by the said trustee or trustees until they shall have been required by the holders of at least one-half of all of the said issue of said bonds which shall then be unpaid and outstanding, to make such demand and take such possession of said road and property.

6th. That in case default shall be made as aforesaid, and shall continue as aforesaid, it shall be lawful for the said party of the second part, or their successors in said trust, after entry as aforesaid, or other entry, or without entry, personally, or by agent or attorney, to sell and dispose of, to the highest bidder, all and singular the premises hereby conveyed or intended so to be, as an entirety, at public auction, at such time as said party of the second part may appoint, first having
1595 demanded of the party of the first part full payment of all money then in default, and also having first given at least sixty days' notice of such time and place of sale, and a full description of the property so to be sold, by advertisement thereof in four newspapers published, one in Montgomery, in the State of Alabama, one in Chattanooga, in the State of Tennessee, one in the city of Boston aforesaid, and one in the city and State of New York, and to adjourn said sale from time to time in their discretion, and, if so adjourned, to make such sale in manner aforesaid, without further notice, at the time and place to which it may be so adjourned, and upon such sale, and receiving the purchase-money therefor, to convey the same, by good and sufficient conveyances

to the purchaser or purchasers; and such sale and conveyances shall convey all the right, title, estate, interest, and *and* property of
1596 the said party of the first part of, in, and to the said road, premises, and franchises and property to the said purchaser, in fee-simple forever, and shall be a perpetual bar, both in law and equity, against the said party of the first part and its successors and assigns, and against all and every person claiming or to claim the said premises, or any part thereof, under them, forever. After deducting from the proceeds of such sale the expenses of the sale and conveyance, and all advances or liabilities which may have been made or incurred by the party of the second part in operating and controlling and maintaining the said railroad and property, and in managing its business and affairs while in possession, and all payments of taxes, charges, and assessments, and liens prior to the lien of these presents on the said premises, or any part thereof, as well as reasonable compensation for their
1597 own services, to apply the proceeds of such sale to the payment of the interest of said bonds secured by this mortgage, or so many of them as shall have been issued by the said party of the first part, and be then outstanding, pro rata, until all of such interest shall be paid, and afterwards to apply the remainder to the payment of the principal of said bonds, pro rata, until such principal shall be paid; and if any surplus remain after paying all of said matters, to pay such surplus to the party of the first part, or its assigns, and such payment shall be so made on said bonds, whether the same shall have be*a*me due or not at the time of such sale; provided that said trustee or trustees may, in their discretion, sell the said premises as an entirety, subject to any lien on the same, or any part thereof, which may at the time have priority over the lien of these presents, and, on doing so, shall make legal distribution of the proceeds of such sale accordingly.

1598 It is hereby declared that the receipt of said trustee or trustees making any such sale to the purchaser of the premises for the purchase-money shall be a full and sufficient discharge of said purchaser therefor; and that said purchaser shall not after the payment of said purchase-money and obtaining such receipt therefor be liable or in any way bound to see said purchase-money applied to this trust or otherwise, or in any manner answerable for its loss or misapplication, or obliged to enquire into the authority for making such sale.

7th. At any sale of the property aforesaid, or any part thereof, made by virtue of these presents or by judicial authority, the said trustee or trustees may bid for and purchase, or cause to be purchased, the property so sold, or any part of it, in behalf of the holders of said bonds secured by this deed, then outstanding, at a reasonable price, if
1599 only a part be sold; but if the whole property be sold, at a price not exceeding the whole amount of said bonds and interest then outstanding.

8th. If default be made by the party of the first part in the payment of any half year's interest on any of said bonds, and the warrants or coupons for such interest shall have been presented and its payment demanded, and such default have continued for three months after such demand without the consent of the holder of such coupon or bond, then and thereupon the principal of all of said bonds hereby secured shall be and become immediately due and payable, anything in such bonds to the contrary notwithstanding, and the said party of the second part may so declare the same and notify the party of the first part thereof, and upon the written request of the holders of a majority of said bonds

then outstanding shall proceed to collect both principal and interest of all of such bonds outstanding by foreclosure and sale of said property, or otherwise as herein provided.

9th. It is hereby mutually agreed by the parties hereto that the trustees shall only be responsible each for his own gross negligence or willful default, and that they shall not be bound to do anything touching the execution of the trust, except at their own option, which may involve them in personal expense or liability, unless first duly and satisfactorily indemnified against the same by one or more of said bondholders. In case of the death, resignation, or inability to act of any trustee, the board of directors may appoint a successor, or failing so to appoint, any court of competent jurisdiction in either of said States in which said road may exist may appoint a trustee to fill said vacancy, on application of the holders of one-sixth part of the bonds hereby intended to be secured then oustanding, and such appointment by the board or by such court shall invest the trustee so appointed with all the interest, estate, power, and authority in the premises, and subject him or them to the obligations hereby given and granted to the party of the second part herein.

And the said party of the first part hereby further covenants and agrees with the party of the second part, and their successors, and with the holders of each and all of the said bonds which may be issued, and hereby secured, that the said party of the first part will at the end of five years after the endorsement of the bonds for the first section of said road, as provided for in the said act approved February 19, 1867, and in the other acts above mentioned, set apart two per centum per annum upon the amount of the bonds of the company endorsed by the State of Alabama as aforesaid, and will use the same in the purchase of the bonds of the State of Alabama or the railroad bonds endorsed by the governor of said State as aforesaid, which bonds the company shall pay into the treasury of said State, after assigning them to the governor thereof, pursuant to the provisions of said act approved February 19, 1867; and that said party of the first part will create and make a further sinking-fund for the redemption of such bonds, and each of them, by setting aside and depositing with the sinking-fund commissioner, to be appointed by the party of the first part for that purpose, from and after the first day of January, A. D. 1877, and annually thereafter until the maturity of said bonds, from the net earnings on the said road and property, after the payment of all the interest on said bonds, an amount of money equal to three per cent. of all bonds hereby secured which shall then be outstanding. Such sinking-fund moneys shall be invested annually by said sinking-fund commissioner in the bonds hereby secured, on the best terms which may be offered in proposals to be called for by him, by giving sixty days' notice by publication in two newspapers published one in New York and one in Boston, provided that such bonds can be bought at not over ten per cent. premium; and whenever said bonds cannot be bought for said price, such sinking-fund moneys shall be invested in such other manner as both parties hereto may from time to time agree upon, they having full power at any time to change any such other investment; and the money accruing on any and all of such investments for interest, as fast as the same shall be received, shall be added and paid into said sinking-funds and compounded therein annually, and invested in like manner with the other moneys of said fund.

That the board of directors of said railroad company, party of the first part, shall have in all other respects entire control over

the management of said sinking-fund and any person in charge of or connected with the same, and shall from time to time direct how it shall be kept and the manner of keeping the accounts thereof, and may require ample security to be given to them by any person in charge of its moneys, or its securities, or bonds for safe-keeping. Every bond hereby secured which may be purchased and held by said sinking-fund shall remain in full force until the whole of said issue shall have been so absorbed or otherwise redeemed by the said party of the first part, and interest on such bonds held by the sinking-fund shall be paid by said railroad company regularly, as the interest on its other similar bonds is paid, and such bonds, so in the sinking-funds, shall, as to the an-
1605 nual amount of money to be paid from the net earnings into said funds, be regarded as outstanding: provided, however, that it is expressly agreed that this indenture, and all the provisions herein contained, and the titles hereby conveyed, are subject to this condition and provision, that liens, rights, privileges, priorities, and powers to which the State of Alabama may now be or hereafter become entitled by reason of the endorsement by said State of the bonds to be issued under and secured by this mortgage, by virtue of any and all acts of the general assembly of said State authorizing such endorsement and providing for such liens, rights, privileges, priorities, and powers, shall in no wise be affected or impaired by this indenture or any of its provisions, or the conveyance in trust and mortgage of said railroad and other property, but shall be paramount thereto in all respects as by any and all of said acts provided; and it is hereby made the paramount
1606 duty and trust of the party of the second part, their successors and assigns, to secure, confirm, and convey unto the State of Alabama, or to such officers thereof, or other persons, as pursuant to the laws of said State may be lawfully entitled, such right, title, or interest as the State of Alabama, or any person or persons claiming under said State, may be vested with or entitled to by virtue of any act of the general assembly of Alabama authorizing said indorsement and providing for the said liens, rights, privileges, priorities, and powers for the benefit of said State.

In witness whereof the said Alabama and Chattanooga Railroad Company, the party of the first part, has caused these presents to be signed, executed, acknowledged, and delivered in its name and behalf by its president and treasurer, and has caused its corporate seal to be hereto affixed the day and year first above written; and
1607 the parties of the second part have hereto set their hands and affixed their seals the day and year aforesaid.*

{ CORPORATE SEAL ALABAMA AND CHATTANOOGA RAILROAD COMPANY. }

D. N. STANTON,
President.
J. T. BURR,
Treasurer.
SETH ADAMS,
FRANCIS DANE,
JOHN DEMERITT,
Trustees.

Attest:
A. J. WALKER.
W. C. JONES.
Attest:
A. T. THAYER.

*Fifteen originals of this instrument executed.

COMMONWEALTH OF MASSACHUSETTS,
County of Suffolk, ss :

BOSTON, *Dec. 5th*, 1868.

Before me personally appeared the above-named Seth Adams, Francis Dane, and John Demeritt, trustees, and acknowledged the foregoing mortgage and trust deed to be their own act and deed for the uses and purposes therein set forth.

In testimony whereof I have hereto affixed my signature and seal of office the day and year last written.

CHAS. F. THAYER.
Notary Public.

[NOTARIAL SEAL.]

1608 EXHIBIT B.

Second mortgage and trust deed of the Alabama and Chattanooga Railroad Co.

This indenture of mortgage, made this the 19th day of December, in the year eighteen hundred and sixty-eight, by and between the Alabama and Chattanooga Railroad Company, a corporation of the States of Alabama, Georgia, Mississippi, an' Tennessee, the party of the first part, Samuel A. Carlton, Lewis Rice, and Robert Treat Paine, junior, trustees upon certain trusts hereinafter specified and provided, party of the second part:

Whereas by virtue and in pursuance of an act of the general assembly of the State of Alabama, approved November 17th, 1868, and entitled An act relating to the Wills Valley Railroad Company and
1609 the Northeast and Southwestern Alabama Railroad Company, said Wills Valley Railroad Company has changed its name to the Alabama and Chattanooga Railroad Company;

And whereas said Alabama and Chattanooga Railroad Company has executed a first mortgage upon its said road in its entire length, including franchises, right of way, road-bed, superstructure, equipments, and other property as in said mortgage is set forth, bearing even date herewith, to secure the payment of the first-mortgage bonds, to be issued by the said company to an amount not exceeding at the rate of sixteen thousand dollars per mile of railroad, and which the said State of Alabama is bound to endorse in pursuance of said act and other acts of the general assembly of said State;

And whereas the directors of said railroad company, at a meeting duly held in the city of Boston, on the second day of December,
1610 A. D. 1868, voted to make and deliver to Samuel A. Carlton, Lewis Rice, and Robert Treat Paine, junior, as trustees, a mortgage and deed of trust, conveying to such persons, as trustees, all the railroad, rights, franchises, and property hereinafter mentioned, for the benefit of the holders of the bonds below described, said mortgage to be signed by the president and treasurer, for and in behalf of the company, and to bear date as made on the day of December, 1868, and to be subject in all respects to the aforementioned first mortgage and to the said bonds to be issued thereunder, and to all the rights, privileges, and liens to which the State of Alabama may be in any manner entitled, under any and all of the acts of the general assembly of said State, pursuant to which said first-mortgage bonds receive the endorsement of said State; and also voted to create issue and dispose of,
1611 at the best rate that can be obtained, their second-mort-

gage bonds payable at the National Security Bank of Boston, in the commonwealth of Massachusetts, on the first day of January, eighteen hundred and eighty-nine, with interest at the rate of eight per cent. per annum, payable semi-annually on the first days of January and July in each year, for one thousand dollars each, not to exceed in all at the rate of nine thousand dollars per mile of railroad, said bonds to be dated as made on the fourth day of January, A. D. 1869; that a warrant for each semi-annual payment of interest shall be made and annexed to each bond; that said bonds shall be prepared by the treasurer of said company, and signed by him and the president, for and in behalf of the company, and shall have annexed to them a certificate of authentication by two, at least, of the trustees under the mortgage made to secure them, and shall not be issued or obligatory without such
1612 certificate: provided, however, that any portion of the said bonds may be made payable in sterling money; in which case each such bond shall be for the principal sum of two hundred pounds sterling in lieu of one thousand dollars; and the principal and interest thereof be made payable at such place in London as the directors of the company shall appoint;

And whereas the said company, for the purpose of raising funds for the completion of the construction and equipment of said railroad from Chattanooga, in the State of Tennessee, to Meridian, in the State of Mississippi, and for the purpose of providing for, and discharging all the existing mortgage-debts and liens upon the whole or any part of their said railroad or property, excepting only the above-mentioned first-mortgage bonds of this company, proposes to issue its second-mortgage bonds as above described, to an amount not exceeding *of* at the rate of nine thousand dollars per mile of said railroad:

1613 Now, therefore, this indenture witnesseth that the said Alabama and Chattanooga Railroad Company, party of the first part, for and in consideration of all and singular the premises, and for the further consideration of one dollar to it in hand paid by the said party of the second part, trustees as aforesaid, at and before the ensealing hereof, the payment of which is hereby acknowledged, doth hereby grant, bargain, sell, enfeoff, release, assign, and convey unto the said Samuel A. Carlton, Lewis Rice, and Robert Treat Paine, junior, trustees as aforesaid, party of the second part, and to their successors and assigns, all and singular the entire railroad of the part on the first, lying, being, and extending from its terminus at Chattanooga, in the State of Tennessee, to and through Dade County, in the State of Georgia, to the State of Alabama, and through the State of Alabama in a general southwesterly direction, passing through the town
1614 of York, in said State, to the State line of the State of Mississippi, and thence to the terminus at Meridian, in said Mississippi, with all its franchises, equipments, property, tolls, issues, and profits; and all its lands, tenements, buildings, fixtures, machinery, goods, and chattels connected with or used in the using and operating of said railway, or appurtenant thereto; and all its rails, ties, fuel, fencing, and erections, and all its rights of way and easements, and all cars, engines, and tools, and all rents, reservations, and reversions of every nature and kind whatever, including all the property between each terminal point, which the party of the first part now has, or owns and possesses, or may hereafter acquire, either in law or equity, of every kind whatever pertinent thereto; also all other like estate, structures, or superstructures and equipments, and matters and things pertaining or

belonging to all or any of the same that may be hereafter ac-
1615 quired, constructed, or controlled by or belonging to the party of the first part; and also all other estate, real, personal, or mixed, of any of the foregoing descriptions, or of any other kind which may be hereafter acquired by the party of the first part, and used or intended to be used in the construction and operation of said railroad: provided, however, that this grant and conveyance aforesaid shall not include nor operate to transfer any railroad lying outside the aforesaid line of said railroad and termini, and which the party of the first part may at any time hereafter acquire, or any property purchased with or exclusively used in connection with the same, or the tolls and profits derived therefrom, or any lands which said company now owns or may hereafter acquire, and which are not necessary for the management or operation of said railway or the repairs thereof, or for the business of the said railroad company; nor shall these presents in any way
1616 prohibit the party of the first part from receiving, using, and *and* applying any money or personal property of said company to the repairs of said road or its appurtenances, or to its current expenses, or to the purchase of any necessary machinery or the renewal thereof; and the board of directors of said company may likewise distribute and pay any net annual incomes and profits to stockholders after paying the interest on any and all bonds which said company may owe, and providing for any sinking funds required to be created and kept.

Provided, however, and it is expressly agreed, that this indenture and the provisions herein contained, and the titles hereby conveyed, are subject to this limitation and restriction, that the above-mentioned first-mortgage and all the liens, rights, privileges, and priorities, and powers to which the State of Alabama may now be or may hereafter be-
1617 come entitled to, by reason of the endorsement by said State of Alabama of the bonds to be issued under and secured by said first mortgage by virtue of any and all acts of the general assembly of Alabama, authorizing such endorsement and providing for such liens, rights, privileges, priorities, and powers, shall in no wise be impaired or affected by this indenture or any of its provisions, or by this conveyance in trust and mortgage of said railroad and other property, but shall be paramount thereto in all respects:

To have and to hold the said railroad, property, premises, interests, rights, and appurtenances mentioned as aforesaid, and hereby conveyed or intended so to be by this conveyance to the said party of the second part, as such trustees as aforesaid, and to their successors in said trust or assigns, to hold to and for the only use, benefit, and behalf of the said trustees, and their cestui que trusts, their successors, and
1618 assigns forever, but in special trust and confidence, and upon the condition following, that is to say:

1st. That this conveyance is for, and shall be by the said party of the second part, their successors and assigns, held, used, and owned solely for the benefit, protection, and security of the persons and corporations who shall hold and own the bonds about to be issued as aforesaid by the party of the first part, and for enforcing the stipulations of said company as to said issue of bonds and the disposal thereof, and securing the same and the final payment thereof, in their true intent and meaning, whether contained in said bonds or the interest warrants attached to them, or in this deed.

2nd. That for the better assuring and confirming the title and powers of the said party of the second part, their successors and assigns, in the said premises and property hereby conveyed, and in and to any premises

and property or rights hereafter accruing or to be acquired by
1619 the said party of the first part, appurtenant to said railroad, which is intended to pass or be passed by this conveyance, the said party of the first part, its successors and assigns, will and shall, as often as may be lawfully required by the party of the second part, their successors or assigns, holding the above-granted trust, do such acts and make such further conveyances and assurances in law as such party of the second part shall, by counsel learned in the law, be advised are necessary for the better carrying out of the object of the parties to this mortgage or deed of trust.

3rd. That if the said party of the first part, its successors or assigns, shall well and truly pay to the holders of said bonds so to be issued and hereby secured, the respective sums of money and interest due and accruing on said bonds on the days and times therein mentioned, and according to the tenor and effect of said bonds, then and thence-
1620 forth this indenture, and all the estate hereby granted, shall become and be utterly void and of no further effect, and the same shall be by such payment wholly annulled and satisfied without any further receipt or entry of satisfaction of record whatever, but shall be, if required, entered and certified on any record of the same, as so satisfied by the party of the second part or their successors.

4th. That until default shall have been made by the party of the first part in the payment of principal or interest of the said bonds or some of them, or until default shall have been made in respect to something herein required to be done by the said party of the first part, or until such default in respect to the first-mortgage bonds or deed, as is hereinafter mentioned, the said party of the first part shall be suffered and permitted to possess, use, occupy, manage, and operate the said railroad, property, franchises, and appurtenances, and to renew, replace,
1621 and repair the same and every part thereof, and take and receive and use the tolls, rents, issues, incomes, and profits thereof, and to dispose of the same in any manner not inconsistent with this instrument.

5th. In case default shall be made in the payment of any interest on any of the aforesaid bonds, issued and to be issued, according to the tenor of the coupons thereto annexed, or of the provisions hereof; or in case default shall be made in the payment of the principal of said bonds or any part of them, when the same shall become due, without the consent of the holder of such bond on which such default shall occur; or in case default shall be made in the payment of any interest or principal of any of the above-mentioned first-mortgage bonds of said party of the first part, or any other such default as to be a breach of the conditions of said first-mortgage deed, and to entitle the trustees thereunder to take possession and make sale of the property
1622 thereby conveyed in mortgage and in trust to them; or in case of any default in the payment of any of the sums of money hereinafter provided for the sinking-fund, the said party of the first part hereby covenants and agrees to and with the party of the second part, and their successors and assigns, that within three months after such default shall have occurred, the same default still continuing, the said party of the first part, on demand of the said trustee or trustees for the time being, shall and will surrender to him or them, or to their agent, the actual possession of the herein granted and demised railway and premises, together with all the books, records, papers, accounts, and money of said company, and all management and control thereof; and that all the expenses of taking, holding, managing, and operating said

property, if possession be so taken, shall be paid from the income and profits thereof; and if said property shall, after such taking
1623 possession thereof, be sold, then from the sale thereof; or such expenses may be paid from the sale of any personal property as the said trustees may deem proper; and that said party of the second part and their successors, having taken such possession, may manage, operate, and control said road and property and all of its affairs, and appoint all needful agents and employees for that purpose, and pay the same, and receive all the incomes, issues, and profits thereof, and apply the same to the payment of the said interest so in default, according to the true intent and tenor of the said bonds and the coupons annexed, and to the terms of this deed, until such default shall have been satisfied, if such incomes and profits will satisfy the same—first paying all expenses of such possession and management, and all taxes, assessments, charges, and prior liens on said property, and a just compensation for their own services as such trustees. But in any and all
1624 *of* cases such taking of possession by said party of the second part, and paying up any such default and the expenses aforesaid, the said party of the second part shall immediately thereafter redeliver the said railway and premises, books, records, and money and accounts into the possession of the party of the first part; provided, that no such demand for such possession shall be made by said trustee or trustees until they shall have been required by the holders of at least one-half of all the said issue of bonds which shall then be unpaid and outstanding, to make such demand and to take such possession of said road and property.

6th. That in case default shall be made as aforesaid, and shall continue as aforesaid, it shall be lawful for the party of the second part, or their successors in said trust, after entry as aforesaid or other entry, or without entry personally or by agent or attorney, to sell and
1625 dispose of, to the highest bidder, all and singular the premises hereby conveyed, or intended so to be, as an entirety, at public auction, at such time as said party of the second part may appoint, first having demanded of the party of the first part full payment of all money then in default, and also first having given sixty days' notice of such time and place of sale, and a full description of the property so to be sold, by advertisement thereof in four newspapers published, one in Chattanooga, in the State of Tennessee; one in Montgomery, in the State of Alabama; one in the city of Boston aforesaid, and one in the city and State of New York; and to adjourn said sale from time to time in their discretion, and, if adjourned, to make such sale in manner aforesaid, without further notice, at the time and place to which it may be so adjourned, and upon such sale and receiving the purchase-money therefor, to convey the same by good and sufficient conveyances, to
1626 the purchaser or purchasers; and such sale and conveyance so made shall convey all the interests, right, title, and property of the party of the first part, of, in, and to the said road, premises, franchises, and property to the said purchaser forever, in fee-simple, and shall be a perpetual bar, both in law and in equity, against the said party of the first part thereof, under them forever.

After deducting from the proceeds of such sale the expenses of the sale and conveyance, and all advances or liabilities which may have been made or incurred by the party of the second part in operating and controlling and maintaining said railroad and property, and managing the business and affairs while in possession, and all payment for taxes, charges, assessments, and liens prior to the lien of these presents

on said premises, or any part thereof, as well as reasonable com
1627 pensation for their own services, to apply the proceeds of such sale to the payment of the interest of said bonds secured by this mortgage, or as many of them as shall have been issued by the said party of the first part, and be then outstanding, pro rata, until such principal shall be paid; and if any surplus remains after paying all of said matters, to pay such surplus to the party of the first part, or its assigns, and such payment shall be so made on said bonds whether same shall have become due or not at the time of such sale; provided, that said trustee or trustees may in their discretion sell the said premises as an entirety, subject to any mortgage-lien on the same, or any part thereof, which may at the time have priority over the lien of these presents, and on doing so shall make legal distribution of the proceeds of such sale accordingly.

It is hereby declared that the receipt of said trustee or trustees
1628 making any such sale to the purchaser of the premises for the purchase-money shall be a full and sufficient discharge of said purchaser therefor, and the said purchaser shall not after the payment of said purchase-money, and obtaining such receipt therefor, be liable or in any way bound to see said purchase-money applied to this trust or otherwise, or in any way answerable for its loss or misapplication, or obliged to inquire into the authority for making such sale.

7th. At any sale of the property aforesaid, or any part thereof, made by virtue of these presents, or by judicial authority, the said trustee or trustees may bid for and purchase, or cause to be purchased, the property so sold, or any part of it, in behalf of the holders of said bonds secured by this deed then outstanding, at a reasonable price, if only a part be sold; but if the whole property be sold, then at a price
1629 not exceeding the whole amount of said bonds and interest then outstanding.

8th. If default be made by the party of the first part in the payment of any half-year's interest on any of said bonds, and the warrant or coupon for such interest shall have been presented and payment demanded, and such default shall have continued for three months after such demand, without the consent of the holder of such coupon or bond, then and thereupon the principal of all of said bonds hereby secured shall be and become immediately due and payable, anything in such bonds to the contrary notwithstanding; and the said party of the second part may so declare the same, and notify the party of the first part therefor, and, upon the written request of the holders of a majority of said bonds then outstanding, shall proceed to collect both princi-
1630 pal and interest of all such bonds outstanding, by foreclosure and sale of said property, or otherwise, as herein provided.

9th. It is hereby mutually agreed by the parties hereto that the trustees shall only be responsible each for his own gross negligence and willful default; and that they shall not be bound to do any act touching the execution of the trust, except at their own option, which may involve them in personal expense or liability, unless first duly and satisfactorily indemnified against the same by one or more of said bondholders. In case of the death, resignation, or inability to act, of any trustee, the board of directors may appoint a successor, and failing so to appoint, any court of competent jurisdiction in either of the States where said road exists may appoint a trustee to fill such vacancy, on the application of the holders of one-sixth of the bonds hereby in-
1631 tended to be secured, then outstanding, and such appointment by the board or by such court shall invest the trustee so appointed

with all the interest, estate, power, and authority in the premises, and subject him to the same obligation given and granted to the party of the second part herein.

And the party of the second part, and their successors, and the holders of each and all of said bonds which may be issued and hereby secured, covenant that the said party of the first part will create and make a sinking-fund for the redemption of such bonds, and each of them, by setting apart and depositing with a sinking-fund commissioner, to be appointed by the party of the first part for that purpose, from and after the first day of January, A. D. 1874, and annually thereafter, until the maturity of said bonds, from the net earnings of the said road and property, after the payment of all the interest on said bonds, and
1632 also the interest on all bonds having a prior lien on said property, or part of it, an amount of money equal to two per cent. annually for three years, and five per cent. annually thereafter, of all such bonds hereby secured which shall then be outstanding. Such sinking-fund moneys shall be invested annually by said sinking-fund commissioner in the bonds hereby secured, on the best terms which may be offered in proposals to be called by him, by giving sixty days' notice by publication in two newspapers, published one in New York and one in Boston, provided that such bonds can be bought at not over ten per cent. premium; and whenever said bonds cannot be bought for said price, said sinking-fund moneys shall be invested in such other manner as both parties hereto may from time to time agree upon, they having full power at any time to change any such other investment; and the money
1633 accruing on any and all such investments for interest, so fast as the same shall be received, shall be added and paid into the sinking-fund, and compounded therein continually, and re invested in like manner with the other money of said fund.

That the board of directors of said railroad company, party of the first part, shall have in all other respects entire control over the management of said sinking-fund, and any person connected with or in charge of the same, and shall from time to time direct how it shall be kept, and the manner of keeping the accounts thereof, and may require ample security to be given to them by any person in charge of its moneys or securities for bonds for safe keeping.

Every bond hereby secured, which may be purchased and held by said sinking-fund, shall remain in full force until the whole of such issue shall have been absorbed or otherwise redeemed by said party
1634 of the first part, and the interest on such bonds held by said sinking-fund shall be paid by said railroad company regularly, as the interest on its other similar bonds is paid, and such bonds so in the sinking-fund shall, as to the annual amount of money to be paid from net earnings into said fund, be regarded as outstanding.

In witness whereof the said Alabama and Chattanooga Railroad Company, the party of the first part, has caused these presents to be signed, executed, acknowledged, and delivered in its name and behalf by its president and treasurer, and has caused its corporate seal to be hereunto affixed the day and year first above written. And the party of the sec-

ond part have hereunto set their hands and affixed their seals the day and year aforesaid.

Fifteen originals of this instrument executed.

{ CORPORATE SEAL, ALABAMA AND CHATTANOOGA RAILROAD COMPANY. }

D. N. STANTON,
President.
J. T. BARR,
Treasurer.

Attest:
A. J. WALKER.
W. A. C. JONES.

S. A. CARLTON,
LEWIS RICE,
ROBT. TREAT PAINE,
Trustees.

Attest:
A. F. THAYER.

1635 COMMONWEALTH OF MASSACHUSETTS,
County of Suffolk, ss:

BOSTON, *Dec. 12th*, 1868.

Before me there personally appeared the above-named Lewis Rice and Robt. Treat Paine, junior, trustees, and acknowledged the foregoing mortgage and trust-deed to be their free act and deed for the act and purposes therein set forth.

In testimony whereof, I have hereto set my hand and affixed my notarial seal on the day and year last written.

CHAS. F. THAYER,
Notary Public.

STATE OF ALABAMA,
County of Montgomery:

I, W. S. Thorrington, a notary public and ex-officio justice of the peace in and for the county and State aforesaid, hereby certify that D. N. Stanton, J. T. Barr, and S. A. Carlton, whose names are signed to the foregoing conveyance, and who are known to me, personally
1636 appeared before me on this day and acknowledged that, being informed of the contents of said conveyance, they voluntarily signed, sealed, executed, and delivered the same on the day of its date, as their act and deed.

Given under my hand the 19th day of December, A. D. 1868.

W. S. THORRINGTON,
Notary Public and ex-offici' Justice of the Peace.

Recorded January 1st, 1869.

J. G. PAGE, *Clerk.*

GEORGIA, *Dade County:*

Personally appeared before the undersigned, J. G. Page, clerk of the superior court of said county, D. N. Stanton and J. T. Barr, and acknowledged the foregoing deed of conveyance to be the act and deed of the Alabama and Chattanooga Railroad Company in its corporate capacity; that they signed the same. This 1st January, 1869.

J. G. PAGE,
Clerk S. C.

Registered Jan. 1st, 1869.

J. G. PAGE, *Clerk.*

1637 GEORGIA, *Dade County:*

I certify that the foregoing is a true copy of the 2nd-mortgage deed Alabama and Chattanooga Railroad Company as recorded in this office.

JNO. S. NETHERY,
D. Clk.

CLERK'S OFFICE, SUPERIOR COURT, *Aug. 28th*, 1871.

And the honorable Richard Busteed, judge of said bankrupt court, having duly considered said petition and the matters and things therein set out, now orders, adjudges, and decrees thereon that Lewis Rice, B. F. Loomis, J. C. Stanton, W. A. C. Jones, J. W. Sloss, and A. C. Hargrove, as administrator of Robert Jennison, jr., deceased, and all other persons interested in the second and third mortgages or deeds of trust mentioned in said petition, be required to appear at this
1638 court as a court of bankruptcy, to be holden at Montgomery, State of Alabama, and middle district aforesaid, on the 12th day of March, 1872, at 12 o'clock meridian, and show cause, if any there be, why the prayer of said petition should not be granted.

And it is further ordered, adjudged, and decreed that a copy of this order and of said petition be served upon the said Seth Adams, F. B. Loomis, J. C. Stanton, W. A. C. Jones, J. W. Sloss, and A. C. Hargrove, as administrator of the estate of Robert Jennison, jr., ten days before the day herein appointed for showing cause as aforesaid.

Witness the honorable Richard Busteed, judge of the district court of the United States for the middle district of Alabama, at Montgomery, Ala., this 20th day of February, A. D. 1872.

[SEAL.] RICHARD BUSTEED,
Judge, &c.

Filed Febr'y 20th, 1872, at 1 p. m.

E. C. V. BLAKE,
Clerk.

1639 UNITED STATES OF AMERICA,
Middle District of Alabama:

I, E. C. V. Blake, clerk U. S. district court, middle district of Alabama, hereby certify that the foregoing writing hereto annexed to this certificate contains a true, correct, and complete copy of the petition for and order of sale, and the order to show cause thereunder in the matter of the Alabama & Chattanooga Railroad Company, bankrupt, in bankruptcy, as the same remains of record and on file in my office as such clerk.

In testimony whereof I have hereunto set my hand and caused the seal of said court to be affixed at Montgomery this 20th February, 1872.

[SEAL OF THE COURT.] E. C. V. BLAKE,
Clerk U. S. Dist. Court Middle District Alabama.

1640 EXHIBIT C.

Copy of an act relating to the Wills Valley Railroad Company and the Northeast and Southwest Alabama Railroad Company.

SECTION 1. Be it enacted by the general assembly of Alabama, That the Wills Valley Railroad Company be, and are hereby, authorized and empowered to purchase at private or public sale, under the mortgage of the Northeast and Southwest Alabama Railroad Company to the

governor of the State of Alabama, (which shall not be void or voidable for want of subscribing witness, probate, or registration,) all the railroad of the said Northeast and Southwest Alabama Railroad Company without distinction of section, together with all and singular the appurtenances and franchises, the grading and local work, the rolling stock of every description, including locomotives, all warehouses, work-
1641 shops, and engine-houses, together with all the fixtures of whatever material belonging to said Northeast and Southwest Alabama Railroad, and the said Wills Valley Railroad Company, may, under and by virtue of said purchase, have and use all said property, railroad, and franchise, together with all the immunities, rights, and privileges now or hereafter at any time vested, or which may hereafter vest in the said Northeast and Southwest Alabama Railroad Company, whether in the State of Alabama or in the State of Mississippi; provided, that the said purchase under the said mortgage shall be at a sum not less than the principal and interest of the debt to the State, to be paid in securities satisfactory to the governor.

SEC. 2. Be it further enacted, That the Wills Valley Railroad Company be, and is hereby, authorized and empowered to purchase
1642 at any mortgage-sale, and to purchase and acquire by gift, release, relinquishment, or any species of conveyance, all franchises, all property, real, personal and mixed, and those in action, (whether existing in Alabama or Mississippi,) which now belong, or heretofore belonged, or may hereafter belong, to the Northeast and Southwest Alabama Railroad Company, and all liens and encumbrances upon any such property now claimed or held, or hereafter claimed or held, by said Northeast and Southwest Alabama Railroad Company, or by any other person or persons under mortgage or otherwise, including the lands donated, or proposed to be donated, by the Congress of the United States, in the said Northeast and Southwest Alabama Railroad Company.

SEC. 3. Be it further enacted, That the said Northeast and Southwest Alabama Railroad Company, and any other corporation or per-
1643 son, is hereby authorized and empowered to transfer unto the said Wills Valley Railroad Company whatever in the next two preceding sections it is authorized to acquire, in a manner appropriate to the nature of the thing transferred.

SEC. 4. Be it further enacted, That releases and relinquishments, and transfers of debts against, or stock in, the Northeast and Southwest Alabama Railroad Company, and in the Wills Valley Railroad Company, may be made by trustees of every sort for their cestui que trust, by guardian for their wards, by executors and administrators for their estates, and by husbands for their wives having separate estates, and that no responsibility shall result from such release, relinquishment, compromise, or transfer, unless fraudulently made, and that no authority of the probate court, or any other court, shall be requisite to the making of the same, and that all such releases, relinquish-
1644 ment, or compromise and transfer heretofore made, be and the same are hereby confirmed, without any responsibility therefor.

SEC. 5. Be it further enacted, That the said Northeast and Southwest Alabama Railroad Company and the said Wills Valley Railroad Company may rescind or modify the executor's agreement for the consolidation and amalgamation of the said two railroad companies heretofore made by and between them, and they, or either of them, shall have full power and authority to make such contracts between themselves and with others as may be appropriate to make the Wills Valley Railroad

Company a purchaser, with unclouded title, to the Northeast and Southwest Alabama Railroad Company, its franchises and property, real and personal, and its rights of every description.

SEC. 6 Be it further enacted, That the said Wills Valley Rail-
1645 road Company may, after acquiring the property and franchise of the Northeast and Southwest Alabama Railroad Company, through its president or vice-president or secretary, upon notice by either of them, in some newspaper published in the State of Alabama, change its name to the Alabama and Chattanooga Railroad Company, and thenceforward sue and be sued, and exercise all the corporate authority and functions, rights and privileges of both the Northeast and Southwest Alabama Railroad Company and the Wills Valley Railroad Company, and have and enjoy all property acquired under the authority of this act.

SEC. 7. Be it further enacted, That whenever it shall appear to the governor of the State by satisfactory proof, that at least twenty continuous miles of the Northeast and Southwest Alabama Railroad, com-
mencing at its southwestern terminus at Meridian, in Mississippi,
1646 are finished, equipped, and completed, it shall be the duty of the governor of the State of Alabama, and he is hereby required, to endorse on the part of the State the first-mortgage bonds of the corporation which shall then own the franchise of the said Northeast and Southwest Alabama Railroad Company, to the extent of sixteen thousand dollars per mile for that portion thus finished, equipped, and completed; and when a second section of five miles is finished, equipped, and completed, it shall be the duty of the governor of the State of Alabama to endorse the first-mortgage bonds of said railroad company to the extent of sixteen thousand dollars per mile for the said section of five miles so finished, equipped, and completed, and this rate of endorsement shall be continued upon the same conditions for each subse-
quent section of five miles: Provided, That said railroad shall
1647 first guarantee, to the satisfaction of such governor, the completion and equipment of said road within a reasonable time, to be prescribed by him, and shall further guarantee, to the satisfaction of such governor, that the road and bridges shall be of the grade and character known as first-class, and that no bonds shall be sold for less than ninety cents on the dollar, and that said bonds shall constitute a lien upon the whole road, whether lying in or out of the State: And provided further, That the general laws on the subject of endorsement of the bonds herein authorized, except in so far as the same may be modified or changed.

SEC. 8. Be it further enacted, That the number of directors of the said Alabama and Chattanooga Railroad Company, when that name shall be taken, shall be fixed by the directors of the Wills Valley Railroad
Company at not less than seven, and the number shall afterwards
1648 be prescribed by the directors of the Alabama and Chattanooga Railroad Company, and there shall be no restriction as to their residence, or as to the residence of the number necessary to constitute a quorum, or as to the location of the office or principal place of business.

SEC. 9. Be it further enacted, That after the said Wills Valley Railroad Company has acquired the franchise and property of the said Northeast and Southwest Alabama Railroad Company, the board of directors of the Wills Valley Railroad Company shall declare the amount of stock in the Alabama and Chattanooga Railroad, each share to amount to fifty dollars, and also to designate the owners thereof, and shall govern and control the corporation until a board of directors shall

be chosen, and that a board of directors shall be elected at such
1649 time and place as may be prescribed by the president or three directors of the Wills Valley Railroad Company, and at all elections each stockholder shall be entitled to one vote for each share of stock owned by him.

Approved November 17th, 1868.

EXHIBIT D.

Order of sale.

UNITED STATES OF AMERICA,
Middle District of Alabama:

In the district court of the United States for said middle district of Alabama, at Montgomery. In bankruptcy.

IN THE MATTER OF THE ALABAMA AND CHATTANOOGA Railroad Company, a bankrupt.

On the petition of John H. Gindrat, Samuel B. Jones, and
1650 John F. Bailey, assignees in bankruptcy of the aforesaid Alabama and Chattanooga Railroad Company, bankrupt.

This cause coming on to be heard on the petition aforesaid, and it being made to appear to the satisfaction of the court by the proper proof, that all the defendants named in said petition have been duly and legally served with a copy of said petition, the exhibits thereto, and the order of the court thereon to show cause, for more than ten days prior hereto, and none of the said defendants appearing, by attorney or otherwise, in answer to said notice to show cause, except the said Alabama and Chattanooga Railroad Company appears, by attorney, and files, in writing, its certain specifications of objections to the prayer of said petition; the same are considered by the court and are overruled.

And it is ordered by the court—

1651 First. That the lien of the State of Alabama, under the laws of Alabama, and the mortgage or deed of trust of date December 19th, 1868, executed by the said Alabama and Chattanooga Railroad Company to Seth Adams, Francis Dane, and John Demeritt, trustees, to secure the State of Alabama against her endorsement of the first-mortgage bonds of the said railroad company and the holders and owners of its first mortgage bonds, be, and the same *and the same* is, in all things recognized and established as a prior lien on the franchise and property, real and personal, of said railroad company, as is set out, described, and nominated in said mortgage or deed of trust.

Second. It is further ordered by the court that the said assignees in bankruptcy of the said Alabama and Chattanooga Railroad Company, and they are hereby directed and empowered, in advance of the
1652 sale hereinafter ordered, to adjust and settle with the State of Georgia her lien on said road, its franchises and property, and in the event said assignees shall not be able, in advance of the sale hereinafter ordered, to adjust and settle with the State of Georgia her said lien, so much of said road, its franchises and property, as is subject to such lien of the State of Georgia must be sold in subordination thereto; and the lien of the State of Georgia in so much of said road, its franchises and property, as is made subject thereto is hereby recognized and established.

Third. It is further ordered that the petitioners, the assignees in bankruptcy aforesaid, be, and they are hereby, directed to sell the franchises and property of the said Alabama and Chattanooga Railroad Company particularly described and set out in the mortgage
1653 or deed of trust aforesaid, exhibited with their said petition, for cash at public outcry, within legal hours, in the city of Montgomery, State of Alabama, first giving at least thirty days' notice of the time, place, and terms of sale by advertisement thereof in the New York Daily Tribune, the New York Daily Journal of Commerce, the Boston Daily Post, the Boston Daily Transcript, the Washington Daily Chronicle, the Mobile Daily Register, the Mobile Daily Tribune, the Montgomery Daily Advertiser and Mail, the Selma Daily Times, and the Huntsville Tri-weekly Advocate, subject to the prior lien aforesaid in favor of the State of Alabama and the holders and owners of the first-mortgage bonds aforesaid, so indorsed by the State of Alabama, to the amount of forty-seven hundred and twenty thousand dollars, and
1654 further subject to the lien of the State of Alabama for interest paid on said first-mortgage bonds to the amount of eight hundred and thirty-two thousand five hundred and eighty-six dollars; and further subject to such interest as the State of Alabama may hereafter pay on said first-mortgage bonds.

Fourth. And in the event the said assignees in bankruptcy settle and adjust with the State of Georgia, in advance of the sale herein ordered, her aforesaid lien, the entire road, its franchises and property, as described in said mortgage or deed of trust, shall be sold by said assignees, free from all other liens except the lien aforesaid in favor of the State of Alabama and the holders and owners of the first-mortgage bonds. But should said assignees fail to make said adjustment and settlement with the State of Georgia in advance of said sale, then so much of said road, its franchises and property, as is subject to the
1655 lien of said State, shall be sold in subordination thereto, and subject also to the lien aforesaid of the State of Alabama and the holders and owners of the first-mortgage bonds.

Fifth. It is further ordered by the court that the proceeds of the sale of said road, its franchises and property, so directed to be made, be brought into court by the said assignees with their report thereof, and that said sale be subject to approval and confirmation of this court, and that said assignees report their action under these orders within thirty days after said sale.

Sixth. And it is further ordered that such further proceedings as may be necessary and proper in the premises are suspended until the coming in of the report of the said assignees.

Witness honorable Richard Busteed, judge of the district court
1656 of the United States for the middle district of Alabama, in bankruptcy, at Montgomery, this 13th day of March, A. D. 1872.

(S'gned) RICHARD BUSTEED,
Judge of the District Courts of the United States, for the State of Alabama.

Filed March 13, 1872, at 2¼ p. m.

(S'gn'd) E. C. V. BLAKE, *Clerk.*

I, N. W. Trimble, clerk of the circuit court of the United States for the 5th judicial circuit and southern district of Alabama, hereby certify the foregoing pages, numbered, respectively, 1, 2, 3, 4, & 5, to be a true and correct transcript of the order of sale made by the honorable Rich-

ard Busteed, judge of the district courts for the State of Alabama, in the cause of the Alabama and Chattanooga Railroad Company in bankruptcy, as the same appears on file and of record in my office.

In testimony whereof I hereunto subscribe my name and cause the seal of said court to be affixed this 13th day of February, A. D. 1873.

N. W. TRIMBLE, *Clerk, &c.*

(Endorsed:) Filed February 14th, 1873. N. W. Trimble, clerk.

1657 *Subpœna in equity.*

UNITED STATES OF AMERICA:

Circuit court of the United States for the fifth judicial circuit and the district of Alabama, at Mobile.

SETH ADAMS AND OTHERS, COMPLAINANTS,
vs.
ALABAMA AND CHATTANOOGA RAILROAD Company and others, defendants.
} In equity. Cross-bill of Chas. B. Wallace.

The President of the United States of America to John F. Bailey, John H. Gindrat, and Samuel B. Jones, and Charles Walsh, who are citizens of the district aforesaid and of the State of Alabama, greeting:

1658 You and each of you are hereby commanded and strictly enjoined that, laying all other matters aside, and notwithstanding any other excuse, you and each of you personally be and appear before the judge of the circuit court of the United States for the fifth judicial circuit and district of Alabama, at Mobile, at the clerk's office of the said court in the city of Mobile, at rules to be had on the first Monday of June (being the 2nd day of said month) next, to plead to, answer, or demur to a cross-bill of complaint exhibited against you in the said court by Charles B. Wallace, who is a citizen of the State of
1659 Georgia, and to do further and receive what the said court shall have considered in that behalf; and this you are not to omit, and have you there then this writ.

To the marshal of the United States for said district to execute.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, and the seal of said circuit court at Mobile, this the 2nd Monday of April, in the year of our Lord one thousand eight hundred and seventy-three, and the Independence of the United States of America the ninety-seventh year.

[SEAL.] Attest: N. W. TRIMBLE, *Clerk, &c.*

1660 NOTE.—The defendants are required and hereby notified to enter appearance in the above-entitled cause in the clerk's office of said court, in the custom-house building in the city of Mobile, on or before the rule-day next ensuing, o wit, the first Monday of June, anno Domini 1873, or the bill may be taken pro confesso against them.

N. W. TRIMBLE, *Clerk.*

JNO. T. MORGAN,
Complainants' Solicitor on Cross-bill.

Issued this 15th day of April, A. D. 1873.

N. W. TRIMBLE, *Clerk.*

Received in office this 16th day of April, A. D. 1873, and executed by serving copy of the within subpœna on the defendants John F. Bailey and John H. Gindrat, at Montgomery, and Charles Walsh at Mobile, this 1st day of May, A. D. 1873.

R. W. HEALY,
U. S. Marshal.

1661 *Petition for permission to sue receivers.*

To the honorable Joseph P. Bradley, associate justice of the Supreme Court of the United States.

FANNY BLACHWELL
vs.
RECEIVERS OF THE ALABAMA AND CHATTANOOGA RAILROAD.

Fanny Blachwell, your petitioner, respectfully asks leave to show and state unto your honor—

That on or about the 28th day of January, A. D. 1873, her husband, Ansly C. Blachwell, a citizen of the county of Lauderdale, and State of Mississippi, and a servant in the regular employment of Lewis Rice and Harralson, then and now receivers of the Alabama and Chattanooga Railroad, and as such servant was acting in the
1662 capacity of assistant yard-master, at the city of Meridian, in said county of Lauderdale, and that on the day aforesaid he was, whilst in the discharge of his duty as such servant, assisting or acting with one Robert Cowell, an engineer in the regular employment of said receivers, and a fellow-servant of him, the said Blachwell, and whilst he, the said Cowell, was running and controlling an engine and locomotive on said road at the time and place aforesaid, he, the said Blachwell, being, as fellow servant on said road and in his position, inferior to and subordinate to the said Cowell as engineer, the said Cowell, by reason of incompetence, unskilfulness, gross negligence, and recklessness, did cause said engine under his control and management at the time
1663 to collide with another engine on the track of said road, said collision causing the leg of said Blachwell to be broken, and his body and limbs to be otherwise bruised and mangled so as to cause his death.

Petitioner states that at the time of said collision said engine was being run in violation of the rules and instructions of said receivers; that it was running when the night was very dark, with no head-light or other light displayed to warn an approaching train, and that the said engine was being run at a speed of not less than twenty miles an hour within the corporate limits of the said city of Meridian.

Petitioner further states that on the day , 1872, your honor, as judge of the circuit court of the United States and sitting at Mobile, in the State of Alabama, in a certain proceeding in
1664 chancery, upon a bill filed therein by Seth Adams and others, as trustees under the first mortgage and trust-deed of said Alabama and Chattanooga Railroad Company, did appoint as receivers of said Alabama and Chattanooga Railroad the said Lewis Rice, and Haralson, and as such receivers the said Rice and the said Haralson have from that time been in sole and complete control and management of said road, and running and operating the same from the said city of Meridian, in said State of Mississippi, to the city of Chattanooga, in the

State of Tennessee, which said cities are the northern and southern termini of said railroad.

The premises considered, petitioner prays of your honor the granting of an order permitting and authorizing her to bring a suit
1665 at law against the said Rice and the said Haralson, receivers as aforesaid of the said railroad, in the circuit court of Lauderdale County, in the State of Mississippi, for the recovery of damages for the killing of her said husband as aforestated, and that such other orders be made as may be deemed proper upon the facts as stated in this petition.

FANNY BLACKWELL,
By W. C. FORD,
Attorney.

Fanny Blackwell, the petitioner, upon oath says that the matters and things contained in the foregoing petition stated as of her own knowledge are true, and those stated upon information she believes to be true.

FANNIE BLACKWELL.

Sworn to and subscribed before me this the 4th day of April, 1873.

I. P. WALKER,
U. S. Commissioner Southern Dist. Miss., Meridian, Miss.

Filed April 17, 1873.

N. W. TRIMBLE, *Clerk.*

1666 *Report of receivers.*

To the honorable the judges of the United States circuit court, presiding in the southern district, at Mobile, Alabama, for the district of Alabama.

The undersigned, the receivers of the Alabama and Chattanooga Railroad, respectfully beg leave to submit the following as their report of their acts and doings, as well as the condition and prospects of the property in their charge, since their last report filed in your honor's court at the February term, 1873. The exhibits A, B, C, D, E, F, and G, hereto attached, are prayed to be taken as a part of this report, as they will more fully show the receipts, expenditures, amount of work done, receivers' financial report, and amount of work necessary to be done immediately. The same cannot conveniently be exhibited more fully in detail, for the reason that accounts kept of such transactions are under numerous headings, as will more fully appear by reference to Exhibit C hereto attached; but we can produce for the inspec-
1667 tion of the court the general books embracing the accounts covered by this report.

It has already been shown in our former report that the property placed in our custody was generally in bad condition, and required the expenditures of a large sum of money to place the same in working order, and prevent a further deterioration of its value. So far as the length of time and the unusually severe winter would permit, we have accomplished this purpose, and in our opinion, if the plans we have adopted are consummated, we may reasonably rely upon a permanent improved condition of the property, as will more fully appear in the subsequent part of this report.

We have purchased and placed upon the road (2) two new locomotives, (1) one passenger-coach, (2) two baggage, mail, and express cars, (6)

six new lever-cars, track-tools of all descriptions; furniture and stationary for all the stations, necessary material to repair rolling-stock and complete buildings in course of erection; timber to repair
1668 bridges and trestles, and cross-ties to repair track. We have collected from along the line of the road all the engines and cars that we found lying in ditches unserviceable; have repaired many and put them in operation, and are now engaged in repairing the balance. The new passenger-depot in course of construction at Chattanooga, Tenn., has had a large amount of work done upon it, and is rapidly approaching completion. The business of the road, both in the passenger and freight departments, has largely increased, and we regret to say that we have been unable to obtain a sufficient amount of rolling-stock to transact the business offering promptly and satisfactory to ourselves.

We have contracted and made ourselves liable for sufficient rolling-stock to provide for our present necessities, as will appear in ex. hereto attached. Part of this rolling-stock will be ready for delivery shortly. We are also building new freight-cars in the shops at Chattanooga, and will be able to complete them as soon as the repairs to dam-
1669 aged cars can be made. The alignment, surfacing, and ditching of the track is progressing rapidly under competent and experienced foreman with a sufficient force of laborers.

We have made regular trips with both passenger and freight trains from Chattanooga to Meridian, from the time we have had possession of the road, except the time intervening while we were repairing the breaks in the road-bed and improving and repairing trestles and bridges. Since such repairs we are making regular daily trips to and from Chattanooga and Meridian, carrying the U. S. mail and express freights, making connections at each point with trains east, west, and south.

This road traverses a part of the States of Mississippi, Alabama, Georgia, and Tennessee, and the corporation existed by virtue of the acts of their respective legislatures, and was the subject of conflicting claims, jurisdiction, &c., which greatly retarded the progress of the road, and disappointed temporarily the expectations created by the building
1670 of the same. The difficulty resulting from these conflicts have been happily concluded by the order of your honor's court under which we are now operating, saving us from the jealousies and prejudices consequent upon these local causes. The control which we have over the entire line, with all of its property, franchises, &c., is greatly conducive to the successful operations of said road and will ultimately result in its complete success if properly managed. The destruction or impairment of the confidence of capitalists, which has resulted from the past unexampled litigation respecting this property, coupled with a terror of a revival of similar litigation in the future, which terror, tho' abating is not yet extinct, has embar'assed us in the negotiations of our certificates, and we have for such reason been unable to make as rapid progress in carrying out the objects for which we were appointed as we otherwise could have done.

The suppression of the destroying litigation of the past by the
1671 benign interposition of yours honor's court in this cause, through its receivers and a general injunction, has already had a most happy effect in restoring confidence and hope as to the preservation, improvement, and the successful and profitable working of the property. The continuance for a year longer, or perhaps for a shorter period, of the administration of this property by this court, it is believed will produce a thorough restoration of public confidence and demonstrate the

fact that the present policy will certainly result in saving from any ultimate loss those who have endorsed the bonds of said corporation or incurred liability for it in respect to this property.

April 21st, 1873.

Very respectfully submitted.

LEWIS RICE,
By W. J. HARALSON,
W. J. HARALSON,
Receivers A. & C. R. R.

SAM'L F. RICE &
J. P. SOUTHWORTH,
Atty's for Receivers.

Summary statement by receivers of Alabama and Chattanooga Railroad, April 11th, 1873.

Month.	Freight.			Expenses.			Payments.					Balance due.		
	From transportation.	From receivers.	Total.	Vouchers.	Pay-rolls.	Total.	Vouchers.	On account.	Pay-rolls.	Foreign roads.	Total.	Vouchers.	Pay-rolls.	Total.
1872.														
October	10,502 96	18,500 00	29,092 96	41,941 01	35,224 94	77,165 95	11,700 81	6,108 76	586 80	994 45	19,390 82	.....	.....	.....
November	26,743 37	16,000 00	42,743 37	49,125 16	41,194 67	90,319 83	15 303 40	1,749 69	....	5,532 73	22,585 82	.....	.....	.....
December	31,036 64	57,379 73	88,416 37	34,845 65	26,851 25	61,696 90	49,566 59	7,449 19	75,832 81	3,334 87	136,183 46	.....	.....	.....
1873.														
January	36,799 46	....	36,799 46	88,831 91	32,200 66	270,322 57	18,715 02	1,735 20	.....	8,712 19	29,162 51	.....	.....	.....
February	29,195 28	37,470 55	66,665 83	29,690 33	30,769 23	60,459 56	23,024 35	1,088 94	.....	9,312 04	33,425 33	.....	.....	.....
March	38,004 79	12,500 00	50,504 79	63,427 13	29,793 50	93,220 63	13,101 29	452 08	60,681 43	10,748 60	84,983 40	.....	.....	.....
April	12,638 93	76,192 34	88,831 27	.....	.....	.....	71,449 84	919 73	.....	1,0e8 34	73,457 91	.....	.....	.....
Total	184,921 43	218,042 62	402,964 05	307,861 19	202,034 25	509,895 44	202,861 30	19,503 69	137,101 04	39,723 22	399,189 25	104,999 89	64,933 21	169,933 10

Respectfully submitted.

HENRY E. WAITE,
Treasurer for Receivers.

1673 ALABAMA AND CHATTANOOGA RAILROAD.

Statement of transportation earnings while being operated by the receivers appointed by the U. S. court.

Month of—	Freight.	Passenger.	Express tolls.	Ala. Cent'l R. R. tolls on 27 miles.	Telegraph tolls.	Total.
October, 1872	12,039 22	3,987 87	127 70	2,169 38	109 26	18,433 43
November, 1872	14,903 99	7,224 20	200 09	1,503 70	786 38	24,624 36
December, 1872	16,629 89	6,528 07	270 50	367 58	188 49	23,984 53
January, 1873	19,643 60	11,474 94	185 37	1,583 12	270 80	33,157 90
February, 1873	15,158 21	5,884 69	213 70	843 10	180 09	22,279 79
March, 1873	15,552 21	4,690 50	288 80	1,632 75	144 44	22,308 61
Total	93,933 03	39,790 27	1,286 16	8,099 63	1,079 53	144,188 62

Respectfully submitted.

WILL. R. CARLILE,
Auditor.

1674 ALABAMA AND CHATTANOOGA RAILROAD.

Detailed statement of cash furnished by receivers.

1872.						
September	24.	From	J. C. Stanton	11,500		
October	14.	"	Lewis Rice	4,000		
"	26.	"	do.	3,000		
						18,500 00
November	18.	"	do.	3,000		
"	22.	"	Drake Bros	3,000		
"	30.	"	do.	10,000		
						16,000 00
December	17.	"	do.	50,000		
"	20.	"	D. N. Stanton	5,000		
"	"	"	J. C. Stanton	2,379	73	
						57,379 73
1873.						
February	13.	"	Thos. J. Clark	10,000	00	
"	18.	"	First Nat'l B'k Chattanooga	1,000	00	
"	"	"	F. B. Loomis	8,680		
"	18.	"	do.	4,000		
"	21.	"	do.	7,000		
"	21.	"	do.	3,000		
"	"	"	J. C. Stanton	320		
"	27.	"	Chapman, Foster & Co	970	55	
"	"	"	First National Bank	2,500		
						37,470 55
March	10.		Drake Bros	2,500		
"	21.		First National Bank	5,000		
"	"		do.	5,000		
						12,500
1675	April 5.	From	John Demerett	13,000		
	" 8.	"	J. C. Stanton	1,188	93	
"	10.	"	Portland Locomotive Works	28,500		
"	"	"	Taunton Car Co	13,300		

"	"	"	Lewis Rice	2,581 58	
"	"	"	Vose, Dinsmore & Co	5,361 38	
"	"	"	W. J. Haralson & Co	500	
"	11.	"	N. McKay	3,000	
"	"	"	Warner & Whitney	3,800	
"	"	"	Vose, Dinsmore & Co	4,960 45	
					76,192 34
Total					$218,042 62

Respectfully submitted.

HENRY E. WAITE,
Treasurer for Receivers.

ALABAMA AND CHATTANOOGA RAILROAD.

Statement of expenses while operated by receivers appointed by the U. S. court for the six months ending March 31st, 1873.

Month of—	Conducting transportation.	Motive-power.	Maintenance of way.	Maintenance of cars.	General expense.	Construction & equipment.	Material in machinery-shop.	Material in car-shop.	Material in smith-shop.	Material in store.	Oil and waste.	Wood and coal.	Passenger-receipts.	Freight-receipts.	Miscellaneous supplies.	Total.
1872.																
October	8,348 51	7,932 32	22,676 46	3,513 66	2,047 90	6,187 21	1,915 79	4,654 06	3,053 91	8,521 16	1,457 41	2,326 54	48	482 10	3,994 92	77,165 95
November	12,332 56	9,849 12	22,199 11	4,762 01	6,353 92	5,144 87	1,100 54	5,485 38	394 11	8,695 56	406 95	2,452 62	.....	91 60	11,411 48	90,319 83
December	7,028 46	6,833 76	13,143 70	2,332 31	7,197 63	5,543 41	1,789 18	2,689 01	250 25	3,833 02	2,554 94	2,617 75	16 65	11 75	5,855 08	61,696 90
1873.																
January	11,442 77	10,231 37	18,438 17	3,690 18	2,206 61	45,429 82	6,958 13	980 08	2,527 96	5,506 25	1,808 94	5,850 95	20 45	238 34	11,702 55	127,032 57
February	8,416 36	9,418 30	11,999 82	2,254 03	2,026 81	5,931 28	7,384 23	95 00	.....	4,038 96	232 69	2,509 83	9 30	66 36	6,076 59	60,459 56
March, estimated	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	93,220 63
Total	47,568 66	43,910 87	88,457 26	16,552 19	19,832 87	68,236 59	19,147 87	13,903 53	6,226 23	30,594 95	6,460 93	15,757 69	91 40	890 15	3,904 06	$509,895 44

Respectfully submitted.

WILL R. CARLILE, *Auditor.*

1677 *Receivers' report of liabilities contracted in operating the Ala. & Chatta. Railroad.*

Balance due, as per Exhibit B	169,933 10
Seth Hopkins & Co., contract to remove earth from cuts through Red Gap and fill in temporarily trestles, 100,000 yds. earth, more or less., @ 30 c. per yd	30,000 00
Portland Locomotive-Works:	
Two 1st-class locomotives, @ 14,500 ea	29,000 00
Taunton Locomotive-Works:	
Six 1st-class locomotives, @ 14,500 ea	87,000 00
Taunton Car-Works:	
Five 1st-class passenger-coaches, @ 5,300 ea	26,500 00
S. M. Winchester & Co.:	
250,000 ft. pine timber for building trestles & general repairs, @ 14.00 p. M	35,000 00
Additional machinery for repair-shops	5,000 00
Miscellaneous building material: roofing, doors, sash, blinds, hardware, &c., including the passenger-depot	30,000 00
Material for building 100 freight-cars	25,000 00
Total liabilities under finished & unfinished contracts	$437,433 10

April 21st, 1873.
Very respectfully submitted.

LEWIS RICE,
By W. J. HARALSON,
W. J. HARALSON,
Receivers A. & C. R. R.

1678 *Engineer's report to the receivers of the Alabama and Chattanooga Railroad of the work performed and improvements made from October 1st, 1872, to April 1st, 1873.*

Earth-work:

1,000 lineal yards embankment reconstructed at Little Canoe Creek.
555 lineal yards embankment reconstructed at *at* Gulf Creek.
2,000 lineal yards embankment reconstructed at Mackelroy Creek.
20,000 cubic yards earth deposited in embankments.
30,000 cubic yards earth removed from Brown's Chinese and other cuts along line of road.
5,000 cubic yards earth-filling on main line near the temporary work.

Cross-ties:

10,000 new cross-ties put in track to replace decayed ties.

Track:

3½ miles new iron laid in track to replace old iron.
½ mile new side-track constructed.
1 turn-table and track constructed at Birmingham.

1679 295 miles track have had extensive repairs in ballasting and adjusting.

Bridging:

300 feet new Howe truss-bridges constructed.
8 miles trestle-work renewed and repaired.

Buildings:

1 passenger-depot at Chattanooga, 400 feet long by 120 feet wide, nearly completed.

19 section-houses constructed on line of the road between Birmingham & Meridian.

4 new water-stations complete, with tanks and apparatus for supply of water to trains.

Respectfully submitted.

R. C. McCALLA,
Chief Engineer.

Filed April 21st, 1873.

N. W. TRIMBLE, *Clerk.*

1680 WEDNESDAY MORNING, *April* 23, 1873.

Court met pursuant to adjournment; present, Hon. William B. Woods, judge, presiding.

* * * * * * *

Decretal order granting leave to Fanny Blackwell to sue receivers, &c.

SETH ADAMS ET AL., TRUSTEES, &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et al.

The petition of Fanny Blackwell for permission to sue the receivers in this cause, filed at a former day of this term, coming on to be heard, upon consideration thereof, it is ordered and decreed that said Fanny Blackwell have leave, and she is hereby permitted, to file her complaint in this court against said receivers, of and concerning the matters and things and claim for damages mentioned or alleged in her said petition, such complaint to be in substance the same as in like cases at law in this court; a copy of such complaint must be served upon the solicitors of said receivers in this cause, and said receivers may demur
1681 or plead thereto within the time allowed in actions at law for pleading after service of summons and complaint.

The clerk will enter such complaint on the law-docket of this court, and the proceedings thereupon shall conform in all respects to the rules and mode of proceeding in actions at law in like cases until the further order of this court: Provided, however, that no judgment personaliter shall be rendered against said receivers, or either of them, and that any judgment which the said petitioner may obtain shall be certified to and be subject to the order and decree of this court to be made in this cause in equity.

1682 THURSDAY MORNING, *April 24th*, 1873.

Court met pursuant to adjournment; present, the honorable William B. Woods, judge, presiding.

* * * * * * *

Decree pro confesso.

SETH ADAMS ET ALS., TRUSTEES FOR THE holders of the first-mortgage bond*holders* of the Ala. & Chat. R. R. Co.,
vs.
THE ALABAMA AND CHATTANOOGA RAILroad Company, Lewis Rice, et als., as trustees of the second-mortgage bonds of the Ala. & C. R. R. Company.
In equity.

It appearing to the court that the defendant, The Alabama and

Chattanooga Railroad, the defendants, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, trustees for the holders of the second-mortgage bonds of the Alabama and Chattanooga Railroad Company, have accepted service of a subpœna in this cause, and also a copy of the bill of complaint on the 24th day of May, 1872; and it appearing further that said defendants have failed to appear and answer to said bill of
1683 complaint; and it further appearing that J. H. Caldwell, as receiver of the chancery court for the county of Hamilton, in the State of Tennessee, at Chattanooga, has been served with a subpœna in this cause to answer to complainants' bill of complaint as defendant; and it appearing that said J. H. Caldwell has failed to appear and answer within the time prescribed by the rules in equity proceedings, on motion of complainants' solicitor, it is adjudged and decreed that the bill of complaint filed in this cause be taken as confessed as against each of said defendants herein named, as to all the statements, allegations, and charges in said bill of complaint contained.

Order of publication.

IN THE MATTER OF SETH ADAMS ET ALS. *vs.* THE ALABAMA AND CHATTANOOGA R. R. CO. et als.	In equity.
CHARLES B. WALLACE *vs.* THE ALABAMA AND CHATTANOOGA R. R. CO. et als.	On cross-bill.

1684 On motion of the complainants, and it appearing to the satisfaction of the court that the defendant, Samuel B. Jones, resides in the State of , and that the defendant, William T. Wofford, resides in the State of Georgia, it is ordered by the court, that said defendants appear in this cause, and plead, answer, or demur to the cross-bill of Charles B. Wallace, filed therein, by the first Monday of July, 1873, and that a copy of this order be served personally on said defendants, if practicable; and if it is not practicable to procure such service, that publication of this order be made by the clerk of this court in a newspaper published in Mobile, Alabama, for thirty days next preceding the first Monday of July, 1873, requiring said defendants to appear in this cause on the first Monday of July, 1873, and plead, answer, or demur to said cross-bill.

1685 *Order for payment of clerk & marshal fees.*

SETH ADAMS ET ALS. *vs.* THE ALABAMA AND CHATTANOOGA RAILROAD Company and others.	In equity.

It is ordered by the court, on motion of counsel, that said receivers pay to N. W. Trimble, esq., clerk of this court, out of any funds in their hands as receivers, the sum of five hundred dollars, to apply on the fees of said clerk and the United States marshal, R. W. Healy, esq., in this cause, said receivers taking a proper voucher therefor.

Special report of receivers as to telegraph line & lands at Chattanooga to be purchased.

SETH ADAMS AND OTHERS
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD et als. } In equity.

To the honorable the judges of the United States circuit court, presiding in the southern district, at Mobile, Ala., for the State of Alabama:

The undersigned, the receivers of the Alabama & Chattanooga
1686 Railroad, beg leave to present the following as their special report to this honorable court: That they have, pursuant to its order, purchased the telegraph-line along said railway, together with all of its appurtenances, at the price ascertained to be due from Charles O. Whitney. This purchase includes only the right or interest which said Whitney had, by virtue of his lien, as is shown to have existed. We have paid said Whitney the sum of $1,800, (eighteen hundred dollars,) in two receiver's certificates for $1,000 (one thousand dollars) each, at ninety cents on the dollar. The balance of said purchase-money will be paid by the next term of your honor's court, and the transfer of his interest in the said telegraph-line, together with all its appurtenances, will be made according to the terms and conditions of said order by that time.

We would further beg leave to report that we have entered into the investigation for the purchase of thirty-five acres of land at Chattanooga, Tennessee, under the order issued by your honor, dated February, 1873, and report that we have not yet had sufficient time to make as thorough investigation as to us seems necessary under the order of your honor, but have made a survey of the ground necessary,
1687 and find that we will require as a maximum twenty-five acres for railroad purposes.

We would therefore, ask further time in which to complete our investigation, and make report of our action in the premises, and a reference of this whole matter as to this land to a master of this court, who shall proceed in the reference and as soon as the owner of the land agrees to abide his judgment and conclusion as to the price of the land.

Very respectfully submitted.

LEWIS RICE,
By W. J. HARALSON.
W. J. HARALSON,
Receiver of A. & C. R R.

Filed April 25th, 1873.

N. W. TRIMBLE,
Clerk.

Order: Reference to W. G. Jones, special master, as to value of lands, &c.

SETH ADAMS ET ALS.
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als. } In equity.

1688 Upon consideration of the special report of the receivers in this cause filed this day, in relation to the purchase of twenty-

five acres of land, under a former order of this court, it is now ordered by the court that William G. Jones, esq., be, and he is hereby, appointed a special master, to whom the whole matter as to the price and the value of the land so proposed to be purchased is hereby referred, and he is hereby directed without unnecessary delay to ascertain from such testimony, by affidavits or in other proper form, as may be submitted to him, the value of said land per acre; and when he so ascertains said value he shall make known the same to the receivers, who are hereby authorized to purchase said lands at the value so ascertained. But the said master must not proceed under this order until the alleged owner of said land, J. C. Stanton, consents or agrees in writing that he will abide the conclusion, as to the value of said land, which may be attained by said master in the reference hereby ordered.

* * * * * * *

1689 *Subpœna for S. B. Jones.*

UNITED STATES OF AMERICA:

Circuit court of the United States for the fifth judicial circuit and southern district of Alabama, at Mobile. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND John C. Stanton, et als., trustees, complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILroad Co., Lewis Rice, et als., defendants.

The President of the United States of America to Robert B. Lindsay, Samuel B. Jones, John F. Bailey, and J. H. Gindrat, who are citizens of the district aforesaid and of the State of Alabama, greeting:

You and each of you are hereby commanded and strictly enjoined that, laying all other matters aside, and notwithstanding any other excuse, you and each of you personally be and appear before the judge of the circuit court of the United States for the fifth judicial circuit
1690 and district of Alabama, at Mobile, at the clerk's office of said court in the city of Mobile, at rules to be had on the first Monday of June (being the 2 day of said month) next, to plead to, answer, or demur to a bill of complaint exhibited against you in the said court by Seth Adams, Francis B. Loomis et als., trustees, and to do further and receive what the said court shall have considered in that behalf, and this you are not to omit.

And have you then and there this writ.

To the marshal of the United States for said district to execute.

Witness honorable Salmon P. Chase, Chief-Justice of the Supreme Court of the United States, and the seal of said circuit court at Mobile, this the 2nd Monday of April, in the year of our Lord one thousand eight hundred and seventy-three, and the Independence of the United States of America the ninety-seventh year.

Attest:

N. W. TRIMBLE,
Clerk, &c.

1691 NOTE.—The defendant is required and hereby notified to enter appearance in the above-entitled cause in the clerk's office of said court, in the custom-house building in the city of Mobile, on or before the rule-day next ensuing, to wit, the first Monday of June, anno Domini 1873, or the bill may be taken pro confesso against them.

N. W. TRIMBLE,
Clerk, &c.

J. Q. SMITH,
Complainants' Solicitors.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

George H. Hinman, of the city of New York, in said district, being duly sworn, deposes that he is of lawful age; that, on the 26th day of May, 1873, this deponent, at No. 35 West 24th street, in said city, personally served the within writ of subpœna on Samuel B. Jones, one of the defendants named therein, by handing to and leaving with said Jones a copy of the same and at the same time showing to said Jones the within original; and that the person so served is, as deponent believes, the Samuel B. Jones mentioned in said subpœna as one of the defendants.

GEORGE H. HINMAN.

Subscribed and sworn to before me May 28th, 1873.

JOSEPH GUTMAN, JR.,
United States Commissioner, S. D. N. Y.

1692 *Affidavit of F. Raymond as to pay of employees.*

UNITED STATES OF AMERICA,
District of Mississippi:

Before me, S. B. Watts, United States commissioner for the southern district of Mississippi, personally appeared Frank Raymond, who, having been duly sworn, deposes and says that he is now and has been for about five months a master mechanic on the Alabama and Chattanooga Railroad, and as such for the period of time above named employed in the machine-shops of said road at Meridian, Mississippi, the southern terminus of said Alabama and Chattanooga Railroad; that during said time he has had at work under him and subject to his direction about fifty workmen and hands in the shops belonging to said A. & C. R. Rd., at Meridian; that there is due said hands and workmen a large amount in the aggregate, to wit, seven thousand five hundred and twenty dollars and sixty-five cents for their labor and services, as will appear from the statement filed with this affidavit made out by this affiant.

1693 And affiant further states that there is due him, this affiant, for his labor and services about three hundred dollars, as is shown by a statement of account herewith filed.

And this affiant further states that the receivers now having charge of said Alabama and Chattanooga Railroad do not reside at Meridian; that one of resides in the State of Alabama and the other in the State of Massachusetts; that said receivers neither come to this end of said A. & C. R. Rd. themselves nor do they send others here to represent them and to attend to the affairs and business of said A. & C. R. R.; that the workmen and hands named as having claims against said receivers for services and labor rendered and done, are generally poor men who depend for support for themselves and their families upon their

labor and toil, and that the failure of said receivers to pay said workmen and mechanics subject' them to great inconvenience and hardship.

And affiant further states that the persons professing to have charge of said A. & C. R. Rd. under said receivers, to wit, J. C. Stanton, the general manager for said receivers, and F. S. Leonard, superintendent of
1694 the southern division of said A. & C. R. Rd., have time and again promised and assured the workmen and mechanics employed at Meridian that they should be paid; have named times when their wages would certainly be paid, but that all their promises and assurances have proved wholly delusive; that wages have not been paid, nor does it appear that they ever will be paid if the matter is to rest with said Stanton, Leonard, and said receivers.

FRANK RAYMOND.

Subscribed and sworn to before me this 10th day of May, 1873.

S. B. WATTS,
U. S. Commissioner, Sou. Dist. of Mississippi, at Meridian.

Filed May 17, 1873.

N. W. TRIMBLE, *Clerk.*

SATURDAY, *May 17th*, 1873.

Court met pursuant to adjournment; present, the honorable Richard Busteed, judge of the district courts of the United States for the State of Alabama, sitting as circuit judge.

Order to receivers to pay employees.

SETH ADAMS ET ALS.
vs.
THE ALABAMA AND CHATTANOOGA R. R. Co. & als. } On bill, &c.

1695 On reading and filing the affidavit of Frank Raymond, whereby it appears that large amounts of money are due to the employees of the receivers in this cause for work and labor and services done and performed at Meridian, Mississippi, it is ordered and decreed that said receivers do forthwith pay said amounts to said employees and their wages up to the date of this order.

RICHARD BUSTEED, *Judge.*

Motion for appointment of special master.

In the circuit court of the U. S. for the 5th circuit & southern dist. of Alabama.

SETH ADAMS ET ALS.
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Co. et als.

In this case motion is made in behalf of the complainants for the appointment of a special master, to examine into and report the state of account existing between the receivers and complainants and the company's property, including all amounts which has come into their hands from the proceeds of the road and from the sale of certificates
1696 issued by the receivers under the order of Mr. Justice Bradley; and also to report the expenditures by the receivers. And that

the special master for this purpose be directed to examine the books and papers of the principal office of the company at Chattanooga.

JAMES Q. SMITH,
Counsel for the Complts.

Filed May 21st, 1873.

N. W. TRIMBLE, *Clerk.*

Order appointing special master.

In the circuit court of the United States for the 5th judicial circuit and southern district of Alabama.

SETH ADAMS ET ALS.
vs.
THE ALABAMA AND CHATTANOOGA R. R. CO. et als.

This motion coming up for hearing in this case for the appointment of a special master, with power to examine into and state an
1697 account between complainants and the receivers heretofore appointed and now in possession of the said railroad property, and the said motion having been considered by the court, it is granted, and N. W. Trimble, esq., clerk of this court, is hereby appointed such special master; and he is directed to take and state an account between complainants and said receivers, embracing the receipts of said receivers from the earnings of said railroad, and what received from the sale of certificates sold or disposed of by said receivers since the date of their appointment; and for this purpose the said special master may go to Chattanooga, the place of the principal office of said railroad, and examine the books, papers, and vouchers kept and used by said receivers; and said master will report fully at the next term of this court all the matters specially hereby referred. It is further ordered that the expenses and charges incurred in and about the special matter herein referred shall be paid by said receivers out of any funds in their hands as such.

RICHARD BUSTEED,
Judge.

MAY 21ST, 1873.

Order requiring spec'l master, W. G. Jones, to make personal examination of lands at Chattanooga.

In the circuit court of the United States for the fifth judicial circuit and southern district of Alabama.

SETH ADAMS ET ALS., COMPLAINANTS,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.
On bill, &c., in equity.

On reading and filing the report of William G. Jones, esq., special master, &c., it is ordered and decreed by the court, in addition to the orders heretofore made, that the said special master do, by personal examination of the lands in Chattanooga proposed to be purchased by the receivers in this cause, and of the history and condition of the title
1699 to and incumbrances upon the same, and upon taking such fur-

ther depositions as he may deem necessary, ascertain and state to the court more fully the value of said land and the circumstances which constitute said value, and of the title and incumbrances thereon, and what were the circumstances under which the same came to be occupied by the said The Alabama and Chattanooga Railroad Company as its terminus without securing the title thereto. It is further ordered and decreed that the said receivers do not pay for said land nor receive any deed for the same until the further order of this court.

It is further ordered that the said master report with all convenient speed.

JOSEPH P. BRADLEY,
Asso. Justice of the Sup. Court U. S.

Filed May 22d, 1873.

N. W. TRIMBLE, *Clerk.*

1700 *Petition of Robert T. Smith, auditor of State of Ala.*

UNITED STATES OF AMERICA,
Fifth Judicial Circuit of the United States:

In the circuit court of the United States for the district of Alabama, at Mobile, in equity.

To the honorable William B. Woods, judge of the said circuit court:

The petition of Robert T. Smith respectfully represents to your honor that he is the auditor of the State of Alabama; that under the provisions of an act of the legislature of the State of Alabama, entitled "An act to amend an act entitled an act to establish revenue laws for the State of Alabama," approved on the 9th of February, 1870, the taxes assessed against any railroad company for State purposes "shall become payable by each railroad company to the auditor, and shall be subject to the same rules and penalties as are prescribed for the payment of other State taxes, and the auditor shall be entitled to any and all remedies granted in the aforesaid act to tax-collectors."

1701 That there was assessed against the Alabama and Chattanooga Railroad Company, by the proper officers of said State, the sum of seventeen thousand seven hundred and forty-five $\frac{30}{100}$ dollars for State taxes for the year 1870, and which taxes have never been paid, and thereby the said company has become liable to pay a penalty of ten per cent. on said sum, making in the aggregate $19,519.83.

That there was assessed against said company by the proper officers of said State the sum of thirty thousand six hundred and four $\frac{97}{100}$ dollars for State taxes for the year 1871, and which taxes have never been paid, and thereby the said company has become liable to the penalty of ten per cent. on said sum, which makes in the aggregate for 1872, $33,665.46.

That neither the president, sec'etary, any receiver, nor any other officer of said company made any returns under oath, as required by law, to the auditor of said State, of the taxable property of said company by the last day of April, 1872, to be taxed for the year 1872, for

1702 State taxes, nor make any returns to the tax-assessors of each county in said State through which said road was located, or to any of them, of all the real property of said company, (except the lands donated by Congress and exempted from taxation,) nor of the station-houses and machine-shops and lands outside of the right of way of said company, or any of them.

That on the failure of said officers to make said returns as aforesaid, the then auditor of the State, R. M. Reynolds, proceeded to ascertain and did ascertain the values of the property of said company liable to taxation for State purposes from the best information he could obtain conveniently, and did thereby and therefrom ascertain the values thereof and the taxes due from said company to the State for the year 1872, and so ascertained the said taxes for the year last aforesaid to be the sum of twenty-two thousand six hundred dollars, and added thereto one hundred per cent. as a penalty for such failure to make said returns, making the sum of $45,200.00, and has also added to this last
1703 sum the amount of ten per cent. for the failure to pay the same as required by law, and making due from said company for State taxes for the year 1872, $49,720.00. That the said company is an incorporation under the laws of the State of Alabama, and having the principal part of its road in said State, and other large quantities of property in said State liable to taxation by the State.

That heretofore, to wit, on the 26th day of August, 1872, upon a bill filed by Seth Adams and others as trustees of the first-mortgage bondholders of said company against the said corporation and others in the said circuit court, an order was made placing said road and other property of said company in the hands of receivers of said court, and William J. Haralson and Lewis Rice were appointed by said court the said receivers, who entered upon the discharge of their duties as such and took possession of said road and other property of said company, and are now in possession of the same.

1704 That your petitioners has applied to William J. Haralson for the payment of said taxes, but he has failed to pay any part of the same.

He therefore prays your honor to grant him an order directed to said receivers commanding them to show cause why your honor should not make an order directing them to pay said taxes within some reasonable period, and on their failure to do so, that your petitioner may be allowed to collect the same as provided by the laws of the State of Alabama.

J. A. ELMORE,
For Petitioner.

Before me, Henry S. Skaats, United States comm'r, &c., personally appeared John A. Elmore, who on oath says he is informed and believes the statements contained in the foregoing petition are true.

J. A. ELMORE.

Sworn to and subscribed before me this 21st day of May, 1873.

HENRY S. SKAATS,
U. S. Commissioner.

Filed in court May 21, 1873.

N. W. TRIMBLE, *Clerk.*

1705 *Order on petition of Robt. T. Smith, auditor.*

Circuit court of the United States, at Mobile.

SETH ADAMS ET ALS.
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

On the application of Robert T. Smith, auditor of the State of Ala-

bama, for an order to the receivers, William J. Haralson and Lewis Rice, to show cause why the taxes due to the said State for the years 1870, 1871, and 1872 from the Alabama and Chattanooga Railroad Company should not be paid by said receivers to said auditor, or that said auditor might be permitted to proceed to collect them according to the laws of the State of Alabama, it is ordered by the court that the
1706 petition be filed, and said application be denied without prejudice to his right to make the same or another application to the said circuit court on some other day, or to one of the judges of said court in vacation.

RICHARD BUSTEED, *Judge.*

MAY 21, 1873.

Filed May 21, A. D. 1873.

N. W. TRIMBLE, *Clerk.*

1707 *Petition for proceedings for contempt.*

Circuit court of the United States for the southern district of Alabama, at Mobile, in the fifth judicial circuit. In equity.

SETH ADAMS ET ALS., TRUSTEES, &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company and others.

To the said circuit court of the United States at Mobile, and the honorable judges in and for said fifth judicial circuit of the United States.

The complainants in the above-entitled cause, as petitioners, respectfully state that by the depreciation of the bonds of the State of
1708 Alabama and the ability of capitalists to purchase them at a price materially less than ninety cents in the dollar of their face value, and other causes unforeseen by them and beyond their control, the expectations of the receivers announced in their report in February last, as to the negotiation of the certificates of indebtedness issued under the order by which they were appointed receivers in this cause, have been in a very large measure disappointed; that they have done all in their power to raise money on said certificates at 90 cents *in* the dollar, to an extent sufficient to enable them to carry into execution all the duties imposed upon them, including the duty of paying in full their
1709 employees; that they have not been able to do so; that many of the employees, including those whose names are stated in the affidavit hereto attached as Exhibit A, and hereby made part hereof, have unlawfully and without any other pretence than that they were not paid in full for their services, perpetrated and committed the acts and things stated in said Exhibit A, and committed a breach of the injunction issued in this cause, and a contempt of the process of this honorable court issued in this cause with notice of said injunction; that by this lawless conduct of these persons, the receivers have been greatly hindered in the discharge of their duties, and great injury done
1710 to the property committed by said court to the receivers, as well as the creditors who have liens upon said property, and to the general welfare of all who are interested in the successful operation of said property.

Wherefore petitioners pray that this court, or one of your honors, will give all such directions and make all such orders as are appropriate

under the law of the land, to punish the persons named in said exhibit for their said breach of said injunction and their said contempt, and to repress such evil-doing by them. Petitioners pray for all such
1711 orders, process, and decrees as may be authorized by law in the premises.

Dated Mobile, May 21st, 1873.

JAMES Q. SMITH,
Counsel for Complainants.

EXHIBIT A.

In the circuit court of the United States for the fifth judicial circuit, at Mobile. In equity.

SETH ADAMS ET ALS., TRUSTEES, &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

Thomas J. Carlile, one of the assistant superintendents of the
1712 Alabama and Chattanooga Railroad, appointed by the receivers in this cause, states that since the 23rd day of April, 1873, Frank Raymond, Edward N. Campbell, Martin Bliss, Thomas F. Carroll, Benjamin Cohen, Michael O'Harra, William Sparling, John Illingsworth, Garrett Farrell, James McInnes, H. C. Scott, T. D. Graham, W. Jasper Long, Dank Miller, John Preston, Cornelius Griffin, William T. McDuffy, Daniel Donovan, Frank Pierce, John Vance, Lee T. Belk, W. Flowers, W. C. Dublin, R. H. Huff, L. J. Wagner, Robert Ellison, George Martin, Charles Flynn, Alexander Gray, E. L. Pendleton, Frank Saxie, William Ball, Bud Ray, Thomas Bright, and others, who
1713 at the time of the commission of their acts, hereinafter mentioned, were employees of or under said receivers upon said road, or in respect to the property committed to said receivers by the *the* said circuit court, from which said receivers received their appointment as such receivers; these men, in violation of and in disobedience to the injunction issued in this cause, and with notice of said injunction—the said parties banded together and took possession of the machinery, machine-shops, engines, and cars at the southern terminus of the railroad, at Meridian; they removed such important parts of some or of all of the engines
1714 as to render them useless or unserviceable to the said receivers. They also took possession of the railroad from Meridian to Tuscaloosa, a distance of about 97 miles, and operated the same on their own account, collecting the money for freight and passengers, turning it over to their own treasurer and failing or refusing to account for the same to the said receivers. They committed many acts of violence against the duly-authorized agents of the receivers, by taking forcible possession of papers in charge of such agents, to enable them to collect charges on freight, in some instances breaking open the desks, as
1715 was the case at the office in Tuscaloosa. They also prevented the authorized agents of the receivers on said part of said railroad from performing their duties, and committed many other acts in violation of and in disobedience to the injunction issued in this cause; the particulars of which can be more fully ascertained by examining the list of witnesses named herein.

Witnesses to above are E. L. Taylor, agent at Livingston, Alabama; H. Kellogg, agent at Tuscaloosa; J. P. Bates, telegraphic operator;

W. K. Pickens, agent at Eutaw, Alabama; T. E. Bates, agent at Toomsuba, Mississippi; J. H. Buzby, J. M. Bellenger, R. A. Ferrell,
1716 conductors; A. W. Fulghum, agent at Meridian; F. B. Kidder, paymaster; F. S. Leonard, assistant superintendent at Meridian; R. C. McCalla, chief engineer, and others.

Personally appeared before me, N. W. Trimble, clerk of the United States circuit court for the fifth judicial circuit, at Mobile, Thomas J. Carlile, who, being duly sworn, says that the matters and things stated herein of his own knowledge are true, and those stated from information and belief he believes to be true.

THOS. J. CARLILE.

Sworn to and subscribed before me this 21st day of May, A. D. 1873.

N. W. TRIMBLE,
Clerk U. S. Cir. Court So. Dist. Ala.

Filed May 21st, 1873.

N. W. TRIMBLE, *Clerk.*

1717 *Order as to contempt.*

In the circuit court of the United States for the southern district of Alabama, in the fifth judicial circuit.

SETH ADAMS ET ALS., TRUSTEES, &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als. } On bill, &c., in equity.

The petition of the complainants, dated Mobile, May 21st, 1873, in the above-entitled cause, with the affidavit of Thomas J. Carlile annexed thereto, marked "Exhibit A," having been presented to the court, and the same having been duly considered, it is ordered, adjudged, and
1718 decreed that the said Frank Raymond, Edward N. Campbell, Martin Bliss, Thomas F. Carroll, Benjamin Cohen, Michael O'Harra, William Spaulding, John Illingsworth, Garrett Farrell, James McInnes, A. C. Scott, T. D. Graham, W. Jasper Long, Dank Miller, John Preston, Cornelius Griffin, William T. McDuffy, Daniel Donovan, Frank Pierce, John Vance, Lee T. Belk, W. Flowers, W. C. Dublin, R. H. Huff, L. J. Wagner, Robert Ellison, George Martin, Charles Flynn, Alexander Gray, E. L. Pendleton, Frank Saxie, William Ball, Budd Ray, and Thomas Bright do severally be and appear before the
1719 honorable William B. Woods, judge of the said court, at the city of Mobile, on the 10th day of June next ensuing the date hereof, to show cause why they should not be punished for a breach of the injunction issued out of said court in the above-entitled cause, committed by the actings and doings set forth in the said petition and exhibit.

And it is further ordered that a copy of this order be served on each of the parties above named, by some United States marshal or deputy marshal in Alabama or Mississippi at least five days before the said 10th day of June next.

It is further ordered that if for any cause the matter of the said
1720 alleged breach of said injunction and contempt of the said process of said court should not be heard and disposed of on said 10th day of June next, then each of the said persons hereinabove named must appear before said circuit court on the first day of its next regular term, and from day to day thereafter until the said charge against

them may be tried, and show cause, if they can, why they should not be punished for the said alleged breach of said injunction and the said contempt of said process of said court.

Dated at the city of Mobile, Alabama, this 21st day of May, A. D. 1873.

RICHARD BUSTEED, *Judge.*

Filed May 21st, 1873.

N. W. TRIMBLE, *Clerk.*

1721 *Motion for decree pro confesso.*

In the circuit court of the United States for the fifth judicial circuit and southern district of Alabama.

SETH ADAMS ET ALS.
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Co. et als.

Motion is made in this case for an order to enter a decree pro confesso against the defendants John F. Bailey and John H. Gindrat as assignees in bankruptcy of the Alabama and Chattanooga Railroad Company, the said defendants, or either of them, having failed to answer to said complainants' bill of complaint within the time prescribed by the rules in equity proceedings.

JAMES Q. SMITH,
Sol. for the Complt.

MAY 21ST, 1873.

Filed May 21st, 1873.

N. W. TRIMBLE, *Clerk.*

1722 *Decree pro confesso.*

In the circuit court of the United States for the 5th judicial circuit and southern district of Alabama, at Mobile.

SETH ADAMS ET ALS., TRUSTEES FOR THE holders of the first-mortgage bond*holders* of the Alabama and Chattanooga Railroad Company,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, et als., trustees for the holders of the second-mortgage bond*holders* of the A. & C. R. R. Company.

It appearing to the court that the defendants John F. Bailey and John H. Gindrat, assignees in bankruptcy of the Ala. and Chat'ga. R. R. Company, have had service of subpœna served upon each of them more than three months before the date of this order, calling upon said defendants as assignees to plead, answer, or demur to said bill, and it appearing further that said defendants, and each of them, failed to appear and answer complainants' bill of complaint within the time prescribed by rules in equity proceedings, it is therefore ordered,
1722½ on motion of complainants' solicitor, James Q. Smith, and it is now adjudged and decreed, that the bill of complaint filed in this

cause be taken as confessed as against each of said defendants herein named as to all the statements, allegations, and charges in said bill of complaint contained.

* * * * * * *

1723 *Report & petition of receivers.*

Circuit court of the United States for the southern district of Alabama, in the fifth judicial circuit.

SETH ADAMS ET ALS., TRUSTEES, &C., *vs.* THE ALABAMA AND CHATTANOOGA RAILROAD Company et als. } On bill, &c., in equity.

To the honorable the judges of said court:

The receivers heretofore appointed in this cause respectfully report that under and by virtue of the interlocutory decree made in the same on the 25th day of April last past, and in pursuance of the determination of the special master in this cause, William G. Jones, esq., they have completed the purchase of the lands in the city of Chattanooga, Tennessee, mentioned and referred to the said interlocutory decree, and have paid therefor the sum of ten thousand dollars per acre, according to the finding of the value thereof by the said special master,
1724 as appears by his letter to us and to one of our solicitors, E. H. Grandin, esq., dated on the 14th instant. The payment for the said lands has been made in the certificates of indebtedness of said receivers in the manner and form authorized and directed by the order of the court appointing said receivers, made on the 26th day of August last past, said certificates having received by the vendor of the said lands at the rate of ninety per cent. of the par value thereof.

The receivers respectfully apply to the court for an order confirming their said purchase and directing them to receive a deed for the said lands made and executed by the vendor of the same according to the laws of the State of Tennessee.

The said receivers further report that by their said purchase they have cleared and perfected the title of the said railroad company to said lands, and that the same are now embraced in the said first mortgage which is sought to be foreclosed and enforced by the said suit, and
1725 that the said lands are now covered by the said mortgage and are subject to the lien of the same, and the said receivers ask the direction of this court as to whom the deed to the said lands shall be made—whether to the said receivers, for the use of the said railroad company, or to the said railroad company by its corporate name.

The certificates issued by the said receivers to the vendor of said lands in payment of the purchase-money thereof are of the face-value of about two hundred and seventy thousand dollars, bearing interest at the rate of eight per cent. per annum, payable half-yearly, and the same have been countersigned by a majority of the trustees for the holders of the first-mortgage bonds of said railroad company, and are a lien equally with other certificates issued by said receivers in conformity with said decree of 26th of August last, prior to all other liens on said railroad and appurtenances, and are entitled to be paid before the said

first-mortgage bonds out of the proceeds of said railroad and property.

1726 Dated Mobile, May 21st, 1873.

LEWIS & RICE,
WM. J. HARALSON,
Receivers, &c.,
By S. F. RICE &
E. H. GRANDIN,
Their Solicitors.

Filed May 21st, 1873.

N. W. TRIMBLE, *Clerk.*

Exceptions to the report & petition of receivers.

Circuit court of the United States, at Mobile, fifth judicial circuit.

SETH ADAMS ET ALS., TRUSTEES, &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company.

John H. Gindrat and John F. Bailey, assignees in bankruptcy of the Alabama and Chattanooga Railroad Company, file their objections and exceptions to the report of the receivers in said cause, William J. Haralson and Lewis Rice, and to the application made by them in
1727 said report for an order confirming the purchase made by them of lands as shown in said report and the order directing them to receive a deed for said lands from the vendor of said lands, and which report was filed in court on the 21st day of May, 1873—

1. Because the report of the special master, William G. Jones, appointed by this court to enquire into and report upon the value of said lands proposed to be purchased by said receivers, has not been made to this court and confirmed by its order.

2. The said report does not shew what liens existed on said lands, the amount or character thereof, and in whose favor, and how the same have been removed, so that this court can act intelligently thereon.

3. The petition of said receivers praying for the purchase of said lands, filed in this court on the 4th of February, 1873, shews that John C. Stanton purchased these lands from J. P. Boyce, the executor of the last will and testament of Ker Boyce, and there is no shewing or evidence
1728 before this court that said executor had the power, under the will of said Ker Boyce, to sell these lands, or that he was empowered by any order of any court of competent jurisdiction in the State of Tennessee to sell the same.

4. That said report is not verified by the affidavit of said receivers or either of them, and is not signed by either of them, but only by their solicitors.

WALKER, BROOKS, O'NEAL & ELMORE,
Sols. for Gindrat & Bailey, Assignees.

5. And said report does not shew that the certificates issued in payment for said lands are made payable at the expiration of ten years from the 1st day of September, 1872, at an interest of eight per cent. per annum.

WALKER, BROOKS, O'NEAL & ELMORE,
For Assignees.

6. It appears from the affidavit of J. P. McMillan, one of the
1729 affiants whose affidavit is reported by the special master, that John C. Stanton purchased this land both from the executor of Kir Boyce and as part of the estate of another person, and it does not appear by what authority the interest of the parties in such other estate than that of Ker Boyce was sold to John C. Stanton, and that the purchase-money is unpaid by said Stanton.

ELMORE & O'NEAL,
For Assignees.

Filing.—Filed the 22d of May, 1873, in open court.
N. W. TRIMBLE, *Clerk.*

1730 *Report of W. G. Jones, special master, as to value of lands.*

Circuit court of the United States for the southern district of Alabama.
In chancery.

SETH ADAMS AND OTHERS
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company and others. } Report.

To the honorable the circuit court of the United States for the southern district of Alabama.

In pursuance of the order made in the above-entitled cause at the present term of this court, on the 25th day of April, 1873, appointing me, the undersigned William G. Jones, special master for the purpose in said order specified, I report thereon as follows:

1731 1. That on the 6th day of May, 1873, John C. Stanton, by his agent and attorney, Daniel J. Duffy, and the receivers heretofore appointed in this cause, by E. H. Grandin, their solicitor, appeared before me, at my office in the city of Mobile, and delivered and filed with me the written consent of said John C. Stanton, dated the 2nd May, 1873, and herewith submitted, included in exhibit marked "A," and also filed with me a plat of the lands referred to in said order, which plat is also herewith submitted, marked "Exhibit B," and affidavits of J. P. McMillen, Joseph Overbacker, O. E. Tade, John T. Wilder, Thomas H. Payne, James R. Ryan, Samuel H. Corey, William H. T. Miller, H. Masten, H. F. Parish, M. A. Gee, Thomas Singleton, J. L.
1732 Forsyth, E. M. Wight, and John L. Divine, witnesses, as to the value of said lands, and a certificate of R. C. McCalla, engineer, &c., as to said plat, and also certificate of J. C. Stanton and D. M. Key, chancellor, &c., as to said witnesses, all of which affidavits and certificates are herewith submitted and filed as part of this report, included in Exhibit A. .

2. I gave notice through the mails of my readiness to proceed and receive evidence in said matter of reference to S. F. Rice, esq., J. Q. Smith, esq., W. M. Brooks, esq're, Jno. T. Morgan, esq., and Messrs. Watts and Troy, esqrs., solicitors for parties, or considered as rep-
1733 resenting parties in interest in said cause, and afterwards took the affidavit of Daniel J. Duffy, which is herewith returned and submitted, marked "Exhibit C;" and a reasonable time for offering other evidence having elapsed, and no further evidence having been offered, and said E. H. Grandin, solicitor for the receivers, having stated that he had no other evidence to offer, I proceeded to ascertain

from said affidavits the value of said lands per acre; and upon said evidence I find and report the value of said lands to be ten thousand dollars per acre; and having so found I make known the same to the said receivers through said E. H. Grandin, their solicitor, who, by
1734 writing, herewith returned and submitted, concurred with said finding; and I also make known the same to said J. C. Stanton through his agent, said D. J. Duffy. All which is respectfully submitted.

WM. G. JONES,
Special Master.

MAY 22, 1873.

The special master certifies that he was engaged in the matters referred to him on five days, and asks an allowance of two hundred dollars as a reasonable fee for his services.

WM. G. JONES,
Special Master.

MAY 22, 1873.

I received notice through the letter of W. G. Jones, esq're, to
1735 Messrs. Watts and Troy, they having handed it to me at the request of Judge Jones, as contained in his letter to them.

J. A. ELMORE,
Of Counsel for the Assignees.

EXHIBIT C, (*with report of special master.*)

In the United States circuit court for southern district of Alabama. In chancery.

SETH ADAMS & OTHERS, COMPLAINANTS,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, and others, defendants.

On reference before Wm. G. Jones, special master at Mobile.

1736 Daniel J. Duffy, being first duly sworn, deposes and says: I am a resident of Chattanooga, Tennessee; my age is twenty-nine years; I am the agent of J. C. Stanton for the sale of property in Stanton's subdivision to Chattanooga, Tennessee. I have been a resident of Chattanooga, Tennessee, since 1866. I am acquainted with the value of real estate in Chattanooga, Tennessee, and have in the last three years sold and controlled more real estate in Chattanooga, Tennessee, than all other agents combined, and there are more than half-dozen agents. I have controlled the property known as Stanton's subdivision since September, 1870, and have made all the sales made in said subdivision
1737 with the exception of one. The subdivision is situate about the centre of the corporate limits of Chattanooga, Tennessee, and is in the centre of Chattanooga proper. I have, as the agent of J. C. Stanton, sold property in said subdivision all around that reserved and taken for railroad purposes, and that sold on Market street has sold at the rate of 1,600$ for a lot 25x150, or at the rate of about $25,000 per acre; much of this property is, and in fact all of it could be, sold at the rate of $15,000 per acre, were the buildings built, and the tracks of the railroad removed so that the same might be cut in different
1738 shape. I consider the sale to the railroad a detriment to the property, rather than an enhancement of its value. No property has been sold with equal advantage that this property has for less than from 15 to 20,000$ per acre.

And being cross-examined by E. H. Grandin, esq're, counsel for the receivers, and appearing also for the complainants in the suit of Seth Adams et als. vs. The Alabama and Chattanooga Railroad Company et als., said deponent saith in reference to the twenty-five acres, more or less, upon which the buildings described in the order of the court stands, which are part and parcel of the railroad property of the Alabama and
1739 Chattanooga Railroad Company upon which the State of Alabama well has a lien for the bonds which she has endorsed in aid of the building of the said railroad, that the said lands are reasonably worth and would sell at public sale for the sum of not less than twelve thousand dollars per acre, at public outcry; that is to say, I mean that the property put up at auction to-day, without an enhanced value by reason of buildings placed there by the Alabama and Chattanooga Railroad Company, and no lien as yet having attached, but to sell the property to an individual it will bring twelve thousand dollars per
1740 acre; that is, payments to be made one-fourth cash and the balance in 6, 12, and 18 months, with interest from date, our customary way of selling property by an order of the court.

I will further state that all of the witnesses in the affidavits submitted to the master by me have had access to and are familiar with the plat of J. C. Stanton's subdivision, also submitted to the master, and the order of his honor Judge Woods; that is to say, the following witnesses: Joseph Onerbacker, E. O. Tade, John T. Wilder, Thomas H. Payne, James R. Ryan, Samuel H. Corey, W. H. T. Miller, H. Marters, H. F. Parish, M. A. Gee, Thomas Singleton, J. L. Forsythe, E. M. Wight, the present mayor of Chattanooga, and John L. Divine.

DANIEL J. DUFFY.

Subscribed & sworn to before me this 14th May, 1873.

WM. G. JONES,
Specl. Master.

1741 EXHIBIT D, (*filed with report of specl. master.*)

Circuit court of the United States for the district of Alabama.

IN THE MATTER OF THE REFERENCE TO WM. G. Jones, esq., special master, &c.

In this matter, I have appeared before the said master as counsel for the receivers, &c., of the Alabama and Chattanooga Railroad Company, and I have no evidence to submit on the part of said receivers. I have examined the affidavits submitted to the master, and I fully concur with him in the conclusion at which he has arrived in relation to the value of the land.

E. H. GRANDIN,
Counsel for Receivers.

Filed May 22nd, 1873.

N. W. TRIMBLE, *Clerk.*

1742 Exhibit A returned with report of special master.
May 22d, 1873.

WM. G. JONES,
Special Master.

Circuit court of the United States for the southern district of Alabama at Mobile, in the fifth judicial circuit of the United States. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company, complainant,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, trustees, &c., and others, defendants.

In the circuit court of the United States for the district of Alabama.

The petition of the receivers in this cause, filed in said circuit court for authority to purchase thirty-five acres or such other quantity of land described in the petition as is necessary for the uses and
1743 purposes of the Alabama and Chattanooga Railroad and its efficient and profitable working and management, &c., has been duly considered by the court, and it is now ordered, adjudged, and decreed that said receivers be and *and* they are hereby authorized to purchase and pay for thirty-five acres, or about that quantity, of land, the same being a part of the tract of land in the city of Chattanooga, in the State of Tennessee, which was purchased by John C. Stanton from J. P. Boyce, executor of the last will and testament of Ker Boyce, and the same being that part of said tract upon which are situated the shops, offices, freight, round-house, store-house, turn-tables, main and side-tracks, the unfinished passenger-depot, and other valuable improvements of said railroad in said city of Chattanooga, and the same being necessary for the uses and purposes of said railroad and its efficient and profitable working and management, and to take a conveyance thereof to themselves as such receivers, and to their succes-
1744 sors in such office of trust, from the person holding the title, the effect of which purchase and conveyance shall be not only to vest the title to said lands so purchased in said receivers and their said successors, subject to the control of this court, but also to confer upon the State of Alabama, as endorser of the bonds of said company, the same lien and all the powers which the said State would have had under its statute lien as provided by the act of the legislature of said State, passed on the 19th day of February, A. D. 1867, entitled an act to establish a system of internal improvements in the State of Alabama, and the amendments thereto, if said property so purchased had been the property of said railroad company at and since its organization; provided, however, that the said receivers must not buy said lands nor any part thereof without first paying, or causing to be paid, any purchase-money which may remain due and unpaid therefor to the original vendor, and which may be a lien on said property so purchased; and
1745 provided further, that said purchase shall embrace only the value of said land as purchased, exclusive of the value of the buildings thereon, and exclusive of the enhanced value of the land so purchased by reason of buildings thereon; and provided further, that the right of way over said land described in the petition has not already been procured by said company by purchase or otherwise, in which event the value of the rights of way shall not be taken in the estimate of the value of the land to be purchased; and provided further, that if said company has paid any sums of money to any person having any interest in or lien upon said lands, or the funds of said company have

been used on the payment to any person having any interest in or lien on said lands, such payments shall be deducted from the price to be paid for said land by said receivers, and said receivers are hereby ordered to investigate as to these alleged facts and make their
1746 report thereon, with proceedings under this order, to this or the next term, subject to the approval of this court.

Feb'ry 7th, 1873.

(S'g'd) W. B. WOODS,
Judge.

I, N. W. Trimble, clerk of the above-mentioned court, hereby certify the foregoing to be a true and correct copy of the original order in the above-entitled cause as the same appears of record in my office.

In testimony whereof I hereunto subscribe my name and cause the seal of said cir. court to be affixed this 5th day of May, A. D. 1873.

Attest:

[SEAL.] N. W. TRIMBLE,
Clerk, &c.

1747 In the circuit court of the United States in the 5th judicial circuit, in the district of Alabama, at Mobile.

SETH ADAMS ET ALS.
vs.
THE A. & C. R. R. ET ALS.

Upon consideration of the special report of the receivers in this cause filed this day in relation to the purchase of twenty-five acres of land under a former order of this court, it is now ordered by the court that William G. Jones, esq., be, and he is hereby, appointed a special master, to whom the whole matter as to the price and value of the land so proposed to be purchased is hereby referred, and he is hereby directed, without unnecessary delay, to ascertain from such testimony by affidavits, or in other proper form as may be submitted to him, the value of said land per acre; and when he so ascertains said value he shall make known the same to the receivers, who are hereby authorized to purchase said lands at the value so ascertained. But the said
1748 master must not proceed under this order until the alleged owner of said land, J. C. Stanton, consents or agrees in writing that he will abide the conclusion as to the value of said land which may be attained by said master in the reference hereby ordered.

I, N. W. Trimble, clerk of the court aforesaid, do hereby certify the foregoing to be a true copy of the original order as the same appears on the minutes of said court.

In testimony whereof I hereunto subscribe my name and cause the seal of said court to be affixed this 5th day of May, A. D. 1873.

[SEAL.] N. W. TRIMBLE, *Clerk.*

1749 I certify that I have examined the accompanying plat with Daniel J. Duffy, agent of J. C. Stanton's subdivision of Chattanooga, Tennessee, setting apart about twenty-five acres of said subdivision for the use of the receivers of the Alabama and Chattanooga Railroad Company for railroad purposes, to be purchased by said receivers under the order of his hon. W. B. Woods, judge, &c., and am of the opinion it is manifestly to the interest of the receivers of said company to purchase said lands as the same are certainly located, being imme-

diately in the centre of said subdivision and adjacent to the Stanton Hotel, and upon which the former company erected machine-shops, freight depots, round-house, and other valuable improvements with a view of purchasing the same.

R. C. McCALLA,
Chief Engineer for the Receivers of the A. & C. R. R'd.

1750 In the circuit court of the United for the southern district of Alabama, in the fifth judicial circuit of the United States. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, JOHN C. Stanton, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippett, & D. N. Stanton, trustees, &c., et als.

Be it remembered that I, John C. Stanton, the vendor of the property in Chattanooga, Tennessee, sought to be purchased by the receivers of the Alabama & Chattanooga Railroad Company under the order of his honor W. B. Woods, judge, &c., agree and bind myself to abide by the conclusion as to the value of said land which may be attained by William G. Jones, esq., the special master appointed by his honor W. B. Woods, judge, &c., under such testimony by affidavits, or in
1751 other proper form as may be submitted to him as such special master.

Witness my hand this second day of May, A. D. 1873.

J. C. STANTON.

Witnesses:
SYLVESTER STEVENS.
THOS. J. CARLILE.

Affidavit of J. P. McMillan in support of purchase of lands by John C. Stanton.

In the circuit court of the United States for the southern district of Alabama, at Mobile, Ala., in the 5th judicial circuit. In equity.

The undersigned, J. P. McMillan, a citizen of Chattanooga, Hamilton County, Tennessee, fifty-two years old, deposes and says that he is now and has been for some eight to ten or more years the agent of James P. Boyce, executor of Ker Boyce, and as such agent made sale of sixty $\frac{49}{100}$ acres of land belonging to the estate of said Ker Boyce and
1752 estate of J. A. Uluteride, dec'd. Also, on or about the 10th day of January, 1870, to John C. Stanton, and bond made for title by James P. Boyce, executor, taking said John C. Stanton's notes or acceptances for the balance of the purchase-money, he having made a cash payment at the time of purchase; the first of notes or acceptances, principal and interest, was paid by said Stanton on maturity; the balance are still unpaid, the payment of the same having been enjoined by Mrs. H. S. Uluteride, executor of J. A. Uluteride, dec'd. Up to the day and until a few minutes before the trade was closed I supposed Mr. Stanton was buying the land for and as agent of the company, (A. & C.

R. R.,) but on consulting with Gov. Patton, of Alabama, who was then vice-president of the company and then present, who advised against the purchase of the entire tract,

Mr. Stanton remarked he would assume the responsibility of buying the entire tract himself, saying at the same time that he could
1753 then let the company have any portion of said land as they might elect, and he then made certain propositions as to payments, interest, &c., which was accepted, and the trade closed to Mr. Stanton.

J. P. McMILLAN.

Sworn to and subscribed before me this May 2d, 1873.

DAN. J. DUFFY,
U. S. Court Ct. Comm'r.

Circuit court of the United States for the district of Alabama, at Mobile, Alabama, in the fifth judicial circuit of the United States. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. STANTON, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company and others.

Personally appeared before me the undersigned John C. Stanton, the owner and vendor of the within property, of lawful age, who, be-
1754 ing duly sworn, deposes and says that in the testimony here submitted to establish the value of the lands in Chattanooga, Tennessee, sought to be purchased by the receivers of the Alabama and Chattanooga Railroad Company under the order of his honor W. B. Woods, judge, &c., to purchase said lands on the conditions therein furnished or under the order of appointment of special commissioner, I have not permitted any man in any way connected with the said A. & C. R. R. Co. to give an affidavit; but the affidavits are those of property-owners and citizens of Chattanooga, Tennessee.

J. C. STANTON.

Sworn to and subscribed before me this May 2d, 1873.

DAN. J. DUFFY,
U. S. Circuit Court Commissioner.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. STANTON, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company,
vs.
THE ALABAMA & CHATTANOOGA RAILROAD Company and others.

1755 Personally appeared before me the undersigned Joseph Ouerbacker, one of the purchasers in Stanton's subdivision, who, being duly sworn, and after carefully examining plat of the property sought to be purchased by the receivers of the A. & C. R. R. Co. in Stanton's subdivision, and order of his honor Judge Woods, says that the property

set forth in said plat is well worth ten thousand dollars per acre, and further deponent saith not.

JOE OUERBACKER.

Sworn to and subscribed before me this April 29, 1873.

DAN. J. DUFFY,
U. S. Commr.

Circuit court of the United States, in the fifth judicial circuit of the United States. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company,
vs.
1756 THE ALABAMA AND CHATTANOOGA RAILroad Company and others.

Personally appeared before me the undersigned E. O. Tade, a citizen of Chattanooga, Hamilton County, Tennessee, who, being by me duly sworn, deposes and says that he has examined the plat of the property sought to be purchased by the receivers of the A. & C. R. R. Co. under authority of his honor W. B. Woods, judge, and in his opinion said property is worth ten thousand dollars per acre.

E. O. TADE.

Sworn to and subscribed before me this April 29th, 1873.

D. J. DUFFY,
U. S. Comr.

Circuit court of the United States for the district of Alabama, at Mobile, in the fifth judicial circuit of the United States. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company,
vs.
1757 THE ALABAMA AND CHATTANOOGA RAILroad Company, Lewis Rice, A. C. Lippett, and Dan' W. Stanton, trustees, &c., and others.

Personally appeared before me the undersigned Genl. John T. Wilder, genl. superintendent of Roane Iron Company and Rockwood Furnaces, also the commissioner selected by the State of Tennessee to represent her interests at the Vienna Exposition in the empire of Austria, who, being by me duly sworn, deposes and says: I am a citizen of the city of Chattanooga, Hamilton County, Tennessee, and have been such for three years; have during my residence here been the mayor of the city by popular vote, and think I am competent to judge of the value of real estate, having in the last few years made some of the largest negotiations and purchases of real estate of any person in East Tennessee. I have examined the accompanying plat of the property sought to be purchased by the receivers of the Alabama and Chat

tanooga Railroad Company under the order of his honor W. B.
1758 Woods, judge, &c., and know the property in question is worth ten thousand dollars per acre. I purchased yesterday, in this same track of land, a piece of property lying adjacent to this that the receivers are negotiating for, which I consider to be of the same value of much of the track, and I paid ($5,000) five thousand dollars for fifty by 149 feet, or about one-fourth of an acre, which is, as I deem, a fair price, yet it is at the rate of over twenty thousand dollars per acre.

JOHN T. WILDER.

Sworn to and subscribed before me this May 1st, 1873.

DAN. J. DUFFY,
U. S. Circuit Comr.

In the circuit court of the United States for the district of Alabama, at Mobile, in the fifth judicial circuit of the United States.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees of the 1st-mortgage bondholders of the Ala. & Chatta. Railroad Comp'y,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company and others.

1759 Personally appeared before me the undersigned Thomas H. Payne, of the firm of Patten & Payne, merchants in the city, and citizens of Chattanooga, Hamilton Co., Tennessee, who, being duly sworn, deposes and says he has examined the plat of the property sought to be purchased by the receivers of the Alabama and Chattanooga Railroad under the order of his honor W. B. Woods, judge, &c., and said property, in his opinion, is worth ten thousand dollars per acre. I have been a resident and merchant in Chattanooga for eight years.

THOMAS H. PAYNE.

Sworn to and subscribed before me May 1st, 1873.

DAN. J. DUFFY,
U. S. Circuit Ct. Comr.

SETH ADAMS, FRANCIS B. LOOMIS, JOHN C. Stanton, trustees, &c.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Co. et als.

1760 Personally appeared before me the undersigned James R. Ryan, a citizen of Chattanooga, Hamilton County, Tennessee, who, being duly sworn, deposes and says: I have been a resident of Chattanooga, Tennessee, for eight years, and am well acquainted with the value of real estate in Chattanooga, Tennessee. I have examined the plat of the property sought to be purchased by the receivers of the Ala. & Chatta. R. R. Co. under the order of his honor, W. B. Woods, judge, &c., and know said property is worth ten thousand dollars per acre. I further state I am one of the directors of the Mechanics' Building and Loan Association of this city, and am appointed one of a committee to investigate and value property.

J. R. RYAN.

Sworn to and subscribed before me this May 1st, 1873.

DAN. J. DUFFY,
U. S. Cir. Ct. Comr.

1761 At Mobile, in the fifth judicial circuit of the United States. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company and others.

Personally appeared before me, the undersigned, Sam'l H. Corey, a citizen of Chattanooga, Hamilton County, Tennessee, who, being by me duly sworn, depose' and says: I am one of the firm of W. Crutchfield & Co., wholesale merchants in Chattanooga, Tenn.; that I am well acquainted with the value of real estate in Chattanooga, Tenn. I have examined the property sought to be purchased by the receivers of the Ala. & Chatta. R. R. Co., under the order of his honor W. B. Woods, judge, &c., and know said property is worth ten thousand dollars per acre.

SAML. H. COREY.

Sworn to and subscribed before me this 30th day of April, 1873.

DANIEL J. DUFFY,
U. S. Comr., &c.

1762 At Mobile, Ala., in the fifth judicial circuit of the United States.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company and others.

Personally appeared before me, the undersigned, Wm. H. T. Miller, a citizen of the city of Chattanooga, Hamilton County, Tennessee, who, being duly sworn, deposes and says: My business is that of a contract' and builder; I have been a resident of the city of Chattanooga, Tenn., for six years, and am familiar with the value of real estate, having purchased and sold a large amount of real estate since my residence here. I have examined the accompanying plat and order of his honor Judge Woods, under which said property is sought to be purchased, and know said property is worth ten thousand dollars per acre.

W. H. T. MILLER.

Sworn to and subscribed before me this May 1, 1873.

DAN. J. DUFFY,
U. S. Circuit Ct. Comr.

1763 Circuit court of the United States for the southern district of Alabama, in the 5th judicial circuit of the United States. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees, &c.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company and others.

Personally appeared before me, the undersigned, H. Masters, a citizen

of the city of Chattanooga, Hamilton County, Tennessee, who, being by me duly sworn, deposes and says: I have been a resident of Chattanooga for more than four years, and am acquainted with the value of real estate in all parts of Chattanooga, Tenn. I am by profession an architect, and have examined the plat of the property sought to be purchased by the receivers of the Alabama and Chattanooga Railroad Company and order of his honor Judge W. B. Woods, and said property is, my opinion, worth three thousand dollars per acre.

H. MASTERS.

Sworn to and subscribed before me this May 1st, 1873.

DAN. J. DUFFY,
U. S. Circuit Ct. Comr.

1764 Circuit court of the United States for the district of Alabama, at Mobile, in the fifth judical circuit of the United States. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company and others.

Personally appeared before me, the undersigned, H. F. Parish, a citizen of Chattanooga, Hamilton County, Tennessee, who, being by me duly sworn, deposes and says that he has examined the accompanying plat of the property sought to be purchased by the receivers of the A. & C. R. R. Co. under the order of his honor W. B. Woods, judge, &c., and, in my opinion, said property is worth ten thousand dollars per acre.

H. F. PARISH.

Sworn to and subscribed before me this 29th day of April, 1873.

DAN. J. DUFFY,
U. S. Comr.

1765 Circuit court of the United States for the district of Alabama, at Mobile, in the fifth judicial circuit of the United States. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees of first-mortgage bondholders of the Alabama and Chattanooga Railroad,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Dan'l N. Stanton, trustees of the second-mortgage bondholders of A. & C. R. R. Co., and others.

Personally appeared before me the undersigned, M. A. Gee, of the firm of J. E. Whitney & Co., of the city of Chattanooga, Hamilton County, Tennesse, who, being by me duly sworn, deposes and says: I

am acquainted with the value of real estate in the city of Chattanooga, Tennessee; and am well acquainted and have examined the plat of the property sought to be purchased by the receivers of the Ala. &
1766 Chatta. R. R. Co., under the order of his honor, W. B. Woods, judge, &c., and know said property to be worth ten thousand dollars per acre.

M. A. GEE.

Sworn to and subscribed before me this April 30th, 1873.

DAN. J. DUFFY,
U. S. Comr.

Circuit court of the United States for the district of Alabama, at Mobile, in the fifth judicial circuit of the United States. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, & JOHN C. Stanton, trustees, &c.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company and others.

Personally appeared before me, the undersigned, Thomas Singleton, citizen of Chattanooga, Hamilton Co., Tennessee, who, being duly sworn, deposes and says he has examined the plat of the property sought to be purchased by the receivers of the Alabama and Chattanooga
1767 Railroad under the order of his honor W. B. Woods, judge, &c., and said property, in his opinion, is worth ten thousand dollars per acre. I have been a resident and contractor for four years.

THOS. SINGLETON.

Sworn to and subscribed before me this May 1st, 1873.

DAN. J. DUFFY,
U. S. Circuit Ct. Comr.

Circuit court of the United States for the dist. of Alabama, at Mobile, in the fifth judicial circuit of the United States. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees of first-mortgage bondholders of the Alabama & Chattanooga Railroad Company,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company and others.

Personally appeared before me, the undersigned, J. L. Forsyth, a citizen of the city of Chattanooga, Hamilton County, Tennessee, who,
1768 being by me duly sworn, deposes and says: I am well acquainted with the value of real estate in Chattanooga, Tennessee; my business is that of contractor and builder. I have examined the plat of the property sought to be purchased by the receivers of the Ala. & Chatta. R. R. Co., in the city of Chattanooga, Tennessee, under the order of his honor W. B. Woods, judge, &c., and know said property is worth ten thousand dollars per acre.

J. L. FORSYTH.

Sworn to and subscribed before me this April 30, 1873.
DANIEL J. DUFFY,
U. S. Commr., &c.

Circuit court of the United States for the district of Alabama at Mobile, in the fifth judicial circuit of the United States. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company,
vs.
THE ALABAMA & CHATTANOOGA RAILROAD Company and others.

1769 Personally appeared before me, the undersigned, E. M. Wight, a citizen of Chattanooga, Hamilton County, Tennessee, and mayor of said city, who, being by me duly sworn, deposes and says that he has examined the accompanying plat of the property sought to be purchased by the receivers of the A. & C. R. R. Co., under the order of his honor Judge W. B. Woods, and that, in his opinion, said property is worth nine thousand dollars per acre, exclusive of streets for city uses.
J. W. WIGHT.

Sworn to and subscribed before me this April 29th, 1873.
DAN. J. DUFFY,
U. S. Comr.

Circuit of the United States for the district of Alabama, at Mobile, Ala, in the fifth judicial circuit of the United States. In equity.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company,
1770 *vs.*
THE ALABAMA AND CHATTANOOGA RAILroad Company, Lewis Rice, A. C. Lippitt, and Dan'l N. Stanton, trustees, &c.

Personally appeared before me, the undersigned, John L. Divine, a citizen of the city of Chattanooga, Hamilton County, Tennessee, who, being duly sworn, deposes and says: I am well acquainted with the value of real estate in Chattanooga, Tennessee, and have examined the plat of the property sought to be purchased by the receivers of the Alabama & Chattanooga Railroad, in Chattanooga, Tennessee, under the order of his honor W. B. Woods, judge, &c., and would state that, in my opinion, the way and manner in which the property is taken rendering the remaining *the remaining* property not so saleable as if in different shape, and lying in the most valuable part of the city, that, in my opinion, it is worth ten thousand dollars per acre for the twenty-four and seven-eighths acres, and, in fact, it is hard to ascertain what
1771 the real value is in the manner and way in which it is taken. I have been a citizen of Chattanooga, Tennessee, for thirty-three years, and during my residence here I have seen a large amount of property sold,

and have never seen a sale made but what the same property, when sold a second time, sold at a large profit.

JNO. L. DIVINE.

Sworn and subscribed before me this April 30th, 1873.

DAN'L J. DUFFY,
U. S. Comr.

CHATTANOOGA, TENN., *May 2nd*, 1873.

I certify I have examined the affidavits of John L. Divine, Gen'l J. T. Wilder, Joseph Ourbacker, Thomas H. Payne, Dr. E. M. Wight, J. L. Forsyth, M. A. Gee, J. R. Ryan, J. P. McMillan, Thos. Singleton, W. H. T. Miller, H. F. Parish, Sam'l H. Corey, H. Masters, and E. O. Tade, who are all creditable witnesses, and citizens of Chattanooga, Ten-
1772 nessee, and who, I think, are competent to appraise the value of real estate in any part of Chattanooga, as some of them are the most responsible citizens we have, and all their testimony on any subject is entitled to full credit.

D. M. KEY,
Chancellor of Third Division of the State of Tennessee.

I, James A. Caldwell, clerk & master of the chancery court of Hamilton County, Tennessee, do hereby certify that D. M. Key, who signed the above certificate, is chancellor of the third chancery division of Tennessee, and that the above is his genuine signature, and that his acts as chancellor are entitled to full faith and credit.

Witness my hand and the seal of said court, at office in the city of Chattanooga, this 2d May, 1873.

[SEAL.] J. A. CALDWELL,
C. and M.

1773 I, James A. Caldwell, clerk & master of the chancery court of Hamilton County, Tennessee, certify that I am personally acquainted with John L. Divine, Gen'l J. T. Wilder, Joseph Ourbacker, Thos. H. Payne, Dr. E. M. Wight, J. L. Forsyth, J. R. Ryan, J. P. McMillan, Thos. Singleton, H. F. Parish, Sam'l H. Corey, H. Masters, and E. O. Tade; that they are all creditable men, citizens of Chattanooga, real-estate owners—except Masters & Ourbacker—and are all, I think, competent judges of the value of real estate, and some of them among the most responsible citizens of Chattanooga.

This 2d May, 1873.

[SEAL.] J. A. CALDWELL, *C. & M.*

1774 *Supplemental report.*

Circuit court of the United for the fifth judicial circuit and southern district of Alabama. In chancery.

SETH ADAMS AND OTHERS, COMPLAINANTS,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company and others, defendants.

Supplemental report of William G. Jones, special master.

To the honorable the circuit court of the United States for the fifth judicial circuit and southern district of Alabama:

The undersigned, William G. Jones, as special master, respectfully

reports that, under and in pursuance of the order made by this court in the above-entitled cause on the 22nd day of May, 1873, I ap-
1775 pointed Thursday, the 5th day of June, 1873, as the time, and the office of the Alabama and Chattanooga Railroad Company, in the city of Chattanooga, as the place for proceeding to make the enquiries referred to me in and by said order, of which I gave notice to the solicitors of the complainants and defendants in said cause, and also to the solicitor of the receivers appointed in said cause; and, considering that the State of Alabama, though not a party to said cause, had a substantial interest in the matter referred to me, I gave a similar notice to his excellency David P. Lewis, governor of the State of Alabama, and also to the solicitor of said J. C. Stanton. In compliance with said order I went personally to the city of Chattanooga,
1776 at the time appointed, and on that day, to wit, the 5th June, 1873, I personally examined the land referred to in said order, and proceeded to take testimony as to the value of said lands and the other matters mentioned in said order of reference; and in taking said testimony the said J. C. Stanton, personally and by attorney, and W. J. Haralson, one of the receivers appointed in this case, personally, and J. L. Tait, on behalf of the State of Alabama, personally, and also by attorney, appeared before me and took part in the offering of evidence and the examination of the witnesses.

The said J. C. Stanton objected to the said J. L. Tait or his attorney offering evidence or examining the witnesses, on the ground that the State of Alabama was not a party to this suit, but as Governor
1777 Lewis had informed me orally that he had authorized said J. L. Tait to attend the said examination on behalf of the State of Alabama, and I considered the State as having an interest in the matters referred to me, I overruled said objection and permitted said Tait and his attorney to offer evidence and examine witnesses. From a personal examination of the land (about twenty-five acres) proposed to be bought by the receivers from J. C. Stanton, as shown on the map or plan of the same heretofore submitted with my former report, and also as shown by a map of the city of Chattanooga, which is herewith submitted, marked "M," I find that it is situated nearly in the geographical centre of the city of Chattanooga, and adjoining to the present business centre
1778 of said city. The principal business houses of the city lie northward of this land, a distance of two or three blocks, but some valuable business houses and improvements have been erected nearer to and adjoining this land, among which are a large brick building, in which is the post-office, also a large four-story brick flouring-mill, also a large and fine brick hotel, much the largest in the city, and other valuable improvements. The location and character of the land makes it well adapted for a railroad depot and offices, and the adjoining lands are well adapted for business purposes or residences. It is also well suited for a general depot of the different railroads centering in
1779 the city of Chattanooga. There are upon this land the Alabama and Chattanooga Railroad freight and passenger depots, commodious brick buildings completed, a smaller brick depot intended for passengers, a round-house constructed of brick, capable of protecting 24 large engines, extensive machine-shops, built of wood on stone foundations, all completed, and a large depot, intended as a union passenger-depot, commenced and covered in, but not yet entirely completed. There are also a complete net-work of railroad-tracks, turnouts, a turntable, and such other appurtenances as it is customary to construct at the terminus of a first-class railroad.

As to the value of the said land, in addition to the affidavits
1780 heretofore made and reported, there was presented to me the affidavits of Robert Cravath, R. L. Watkins, Benjamin S. Nicklin, William A. McCorkle, William Van Ulrich, John G. Webb, Daniel Kaylor, F. M. Gardenhine, G. A. Wood, George S. Ruble, W. L. Eaken, A. J. Wisdom, Thomas J. Carlile, Thomas Webster, Charles O. Whitney, and A. D. Taylor, all of which are herewith returned and submitted.

Other witnesses, and some of whom had previously given their affidavits, were also examined personally before me, to wit: Thomas J. Carlile, Charles O. Whitney, John P. Long, John B. Weaver, Parks Foster,
John L. Divine, Morris Bradt, Daniel Kaylor, R. L. Watkins,
1781 A. D. Taylor, S. H. Corey, G. A. Wood, and J. C. Stanton, all of whose examination under oath is herewith submitted.

It appears from the testimony of J. C. Stanton that, in the month of January, 1870, he contracted for the purchase of a tract of land of about seventy acres, of which the land now proposed to be sold to the receivers is a part, from James P. Boyce, executor of Ker Boyce, deceased, at the price of $2,000 per acre, and that the 25 acres now proposed to be bought could not have been bought at that time for less than $2,500 per acre; it further appears from the testimony that, since the year 1869, the city of Chattanooga has been increasing rapidly in
population and business, and that the value of real estate in the
1782 city generally has greatly increased in value; the population has about doubled within that time, and the assessed value of the whole real estate within the city limits has increased from a little over $2,000,000 to a little over $6,000,000; that the value of lands in the city near the river has not increased in value, at all, during that time, and that the principal increase of value has been of lands near and adjacent to the lands now proposed to be sold; there is some diversity of opinion among the witnesses who have been examined as to the value of this land per acre; as was to be expected, none of them placed it below
or at less than $5,000 per acre; a great majority of them placed
1783 its value at $10,000 per acre, and some higher; upon the whole testimony as to value, I find and report it to be at the value of ten thousand dollars ($10,000) per acre, without including in this the value of the buildings and improvements put upon the land.

The circumstances, which, from the evidence, in my opinion, constitute the value of the said land, are that within the last few years, since 1869, the city of Chattanooga has been constantly and rapidly increasing in business and population, and as a natural consequence the value of land has greatly increased within that time, and there is good reason
to believe, and it is generally believed, that it will continue to
1784 increase in population, business, and value of real estate; another circumstance which has increased the value of this land is the fact that business that was formerly transacted in the city near the river, has of late years been transferred mostly to the part of the city off from the river, within which are the termini of the railroads entering the city, and including the land now in question.

Another circumstance which, in my opinion, has added materially to the value of these lands, is that J. C. Stanton, since his purchase of the tract of about 70 acres from J. P. Boyce, executor, has caused streets to be graded, some of them paved, and a number of valuable buildings to be erected in the said tract contiguous to the 25 acres proposed to be sold.

1785 Another circumstance which, in my opinion, has contributed to the value of these lands, is the fact that it has been selected

as the depot of the Alabama and Chattanooga Railroad Company, and the probability of it becoming the site of a union depot of all the roads centering at Chattanooga.

As to the title to the said land it appears that in 1845 the title to the same was in W. W. Anderson; he conveyed the same to James A. Whitesides by deed dated September 22nd, 1845; that said Whitesides conveyed the same to Benjamin R. Montgomery, by deed dated March 1st, 1849, and by said Montgomery to Ker Boyce, by deed dated May 1st, 1853, that said Ker Boyce, now deceased, by his will dated
1786 December 29th, 1851, and proven March 22nd, 1854, gave power to his executors to sell his lands, including the land now in question; on the 11th of January, 1870, John P. Boyce, then sole executor of Ker Boyce, deceased, contracted to sell the said land to J. C. Stanton at the price of $2,000 per acre—$20,000 of the purchase-money to be paid in cash, and the balance in installments of $20,000 each at the expiration of each and every 90 days thereafter with interest at 6 per cent. per annum; and the said Boyce, as executor, then made and delivered to the said Stanton his bond for titles, in the penal sum of $336,000, bearing date the 11th of January, 1870, and conditioned to make
1787 good titles to the said land to the said Stanton on payment of all the said purchase-money, as will more fully appear by a copy of said bond for titles, attached to the affidavit of the said J. C. Stanton and herewith returned.

The cash payment of twenty thousand dollars was made and Stanton was then put in possession of the land and has been so ever since; but the whole of the purchase-money has not yet been paid by Stanton to Boyce; several suits have been commenced and are yet pending in the chancery court, at Chattanooga, in relation to the said land or the purchase-money agreed to be paid therefor. One by the State of Alabama, complainant, vs. The Alabama and Chattanooga Railroad Com-
1788 pany et als., defendants; another by J. P. Boyce et als. vs. J. C. Stanton et als.; another by H. L. Whiteside, executrix, vs. J. P. Boyce et als., and a cross-bill in the same case of J. P. Boyce et als. vs. H. L. Whitesides et als.; another by J. P. McMillan vs. J. P. Boyce et als.; another by J. C. Stanton vs. H. L. Whitesides et als.; and another by W. W. Anderson vs. H. L. Whitesides et als. These suits relate rather to the disposition of the purchase-money to be paid for said land, than to the title to the land.

I was informed by the solicitors representing most of the parties to the said suits, that no objection was made to the sale of the said land by Boyce to Stanton, and upon the payment into court of the un-
1789 paid purchase-money or so much thereof as will be necessary to provide for the several claims, proper decrees will be rendered, by consent, for making title to the said land to the said Stanton; certified copies of orders in two of said cases, at the last term of said chancery court and an agreement of solicitors in said cases are herewith submitted, marked "L."

I cannot undertake to determine the questions in litigation in said chancery suits, and which will have to be decided by said chancery court. I am of opinion that a decree might be rendered in said cases at the next term of said chancery court and probably would be rendered by consent of all the parties, authorizing payment into court of the
1790 unpaid purchase-money, or part thereof, under which a good title could be made to the said lands to the receivers. I do not find any incumbrances on the land other than the suits in chancery before mentioned; the register of deeds of Hamilton County, in which Chatta-

nooga is situated, certifies that there are no mortgages or deeds of trust recorded against the property, as appears by his certificate herewith submitted, marked "N."

The only evidence as to the circumstances under which the lands came to be occupied by said Alabama and Chattanooga Railroad as its terminus, is the affidavit of John C. Stanton herewith submitted, which
1791 affidavit was submitted to William J. Haralson, one of the receivers, and the said Tait as representing the State of Alabama, and they made no objection to the same and did not propose to cross-examine the said Stanton, nor to offer any other testimony upon the subject.

All of which is respectfully submitted.

(Signed) WM. G. JONES,
Special Master.

JULY 19TH, 1873.

Filed July 19th, A. D. 1873.

N. W. TRIMBLE, *Clerk.*

1792 *Evidence referred to in supplemental report of W. G. Jones, special master.*

Circuit court of the United States, at Mobile. In chancery.

SETH ADAMS & OTHERS
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company and others.

Evidence referred to in, and returned with, the supplemental report of the undersigned special master in the above-entitled cause.

WM. G. JONES,
Special Master.

JULY 19, 1873.

1793 ALABAMA AND CHATTANOOGA RAILROAD COMPANY,
OFFICE OF GENERAL MANAGER,
Chattanooga, Tenn., May 28th, 1873.

Major D. J. DUFFY,
U. S. Commissioner, &c.:

DEAR SIR: The receivers of the Alabama and Chattanooga Railroad filed a petition in the circuit court of the United States, at Mobile, Alabama, asking permission of the court to be permitted to purchase from Mr. John C. Stanton the lands upon which are located the depots, shops, &c., in Chattanooga, Tennessee, and other lands necessary for railroad purposes, ascertained, by actual survey, to be about (25) twenty-
1794 five acres. I desire you to take testimony of witnesses acquainted with the worth of said land. I am informed that you have already taken the testimony of General John T. Wilder, John L. Divine, and others, upon whose testimony I am willing to rely, and take testimony of other witnesses who are acquainted with the value of said lands, submit that testimony to the honorable William G. Jones, special commissioner, to pass upon the value of said lands, and submit the same to the court.

Very respectfully,

W. J. HARALSON,
Receiver.

1795 In the circuit court of the United States in the fifth judicial circuit and district of Alabama, at Mobile, Alabama. In equity.

SETH ADAMS ET ALS., TRUSTEES, &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

I, Daniel J. Duffy, a commissioner of the United States circuit court for the district of East Tennessee, at the request of W. J. Haralson, one of the receivers of the Alabama and Chattanooga Railroad, appointed by Mr. Joseph P. Bradley, associate justice of the Supreme Court of the United States, have caused to come before me Rob-
1796 ert Cravath, who, being by me duly sworn, deposes and says: My profession is that of a civil engineer, and have been connected with various railroads throughout the United States for the past twenty years; further states that he has been connected with the Alabama and Chattanooga Railroad since its construction; during the greater portion of his connection, as its chief engineer; thinks this knowledge of the wants of railroads would be a fair basis for a valuation of real estate; has also had knowledge of the property heretofore sold in Stanton's subdivision by D. J. Duffy, agent for same, and, from the prices realized, should say said property sought to be pur-
1797 chased by the receivers is well worth ten thousand dollars per acre, and in his opinion will enhance in value 25 per cent. or more in the next three years.

R. CRAVATH.

Sworn to and subscribed before me this June 3rd, 1873.

{SEAL OF U. S. COMMR. FOR DIST. OF EAST TENN.}

DANIEL J. DUFFY,
U. S. Cir. Court Commissioner.

In the circuit court of the United States for the fifth judicial circuit and district of Alabama, at Mobile, Alabama. In equity.

SETH ADAMS ET ALS., TRUSTEES, &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

1798 I, Daniel J. Duffy, a commissioner of the United States circuit court for the eastern district of Tennessee, at the request of W. J. Haralson, one of the receivers appointed by Mr. Joseph P. Bradley, associate justice of the Supreme Court of the United States, *I* have caused to come before me R. L. Watkins, a citizen and landholder of Chattanooga, Hamilton County, Tennessee, who, being duly sworn, deposes and says he has examined the plat of the property sought to be purchased by the receivers in Chattanooga, Tennessee, and order of his honor, W. B. Woods, judge, &c., and that in his opinion said property is well worth ten thousand dollars per acre, with an increasing
1799 value. Deponent further states he is an old resident of Chattanooga, Tennessee.

R. L. WATKINS.

Sworn to and subscribed to before me this May 30th, 1873.

{SEAL OF U. S. COMMR. FOR DISTRICT OF E. TENN.}

DANIEL J. DUFFY,
U. S. Cir. Court Commissioner.

In the circuit court of the United States, in the fifth judicial circuit, and district of Alabama, at Mobile, Alabama. In equity.

SETH ADAMS ET ALS., TRUSTEES, &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

1800 I, Daniel J. Duffy, a commissioner of the United States circuit court for the district of East Tennessee, at the request of W. J. Haralson, one of the receivers of the Alabama and Chattanooga Railroad, appointed by Mr. Joseph P. Bradley, associate justice of the Supreme Court of the United States, have caused to come before me Colonel Benjamin S. Nicklin, an attorney at law, and citizen of Chattanooga, Hamilton County, Tennessee, who has examined the plat of the property sought to be purchased by the receivers in this cause, and, after being duly sworn, deponent states said property, in his opinion, is worth at least ten thousand dollars per acre.

BEN. S. NICKLIN.

Sworn to and subscribed before me this June 3rd, 1873.
[L. S.] DANIEL J. DUFFY
U. S. Commr.

1801 In the circuit court of the United States, in the fifth judicial circuit, and district of Alabama, at Mobile, Alabama. In equity.

SETH ADAMS ET ALS., TRUSTEES, &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

I, Daniel J. Duffy, a commissioner of the United States circuit court for the district of East Tennessee, at the request of W. J. Haralson, one of the receivers of the Alabama and Chattanooga Railroad, appointed by Mr. Joseph P. Bradley, associate justice of the Supreme Court, have caused to come before me W. A. McCorkle, who, being duly
1802 sworn, states: I am a citizen of and landholder in Chattanooga, Tennessee. I am acquainted with the value of real estate generally throughout Chattanooga; have examined the plat of the property sought to be purchased by the receivers in this cause; have also heard the order of Judge Woods, of February 7th, 1873, relating to said purchase made, and in my opinion said property is worth from ten to twelve thousand dollars per acre.

W. A. McCORKLE.

Sworn to and subscribed before me this June 3rd, 1873.

SEAL OF U. S. COMMR. FOR DIST. OF EAST TENN.

DANIEL J. DUFFY,
U. S. Commissioner.

1803 In the circuit court of the United States, in the fifth judicial circuit, and district of Alabama, at Mobile, Alabama. In equity.

SETH ADAMS ET ALS., TRUSTEES, &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

I, Daniel J. Duffy, a commissioner of the United States circuit for the district of East Tennessee, at the request of W. J. Haralson, one of the receivers of the Alabama and Chattanooga Railroad, appointed by Mr. Joseph P. Bradley, associate justice of the Supreme Court of the United States, have caused to come before me Wm. Van Ulrich, of
1804 the firm of Dietz and Van Ulrich, architects and civil engineers, a citizen of Chattanooga, Hamilton County, Tennessee, who, being duly sworn, deposes and says he has examined the plat of the property sought to be purchased by the receivers in this cause, also the order of honorable W. B. Woods, judge, &c., and in my opinion said property is worth from ten to eleven thousand dollars per acre.

WM. VAN ULRICH.

Sworn to and subscribed to before me this June 2nd, 1873.

{ SEAL OF U. S. COMMR. FOR E. DIST. OF TENN. }

DANIEL J. DUFFY,
U. S. Cir. Court Commissioner.

1805 In the circuit court of the United States, in the fifth judicial circuit, and district of Alabama, at Mobile, Alabama. In equity.

SETH ADAMS ET ALS., TRUSTEES, &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

I, Daniel J. Duffey, a commissioner of the United States circuit court for the district of East Tennessee, at the request of W. J. Haralson, one of the receivers of the Alabama and Chattanooga Railroad, appointed by Mr. Joseph P. Bradley, associate justice of the Supreme Court of the United States, have caused to come before me John G. Webb, a
1806 merchant and landholder of Chattanooga, Tennessee, who, being duly sworn, deposes and says he has examined the plat of the property sought to be purchased by the receivers, &c., in Chattanooga, Tennessee, and in his opinion said property is worth from ten thousand to eleven thousand dollars per acre.

JOHN G. WEBB.

Sworn to and subscribed before me this June 2nd, 1873.
[U. S. COM'R'S SEAL.]

DANIEL J. DUFFY,
U. S. Circuit Court Commissioner.

In the circuit court of the United States, in the fifth judicial circuit,
1807 and district of Alabama, at Mobile, Alabama. In equity.

SETH ADAMS ET ALS., TRUSTEES, &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

I, Daniel J. Duffy, a commissioner of the United States circuit court

for the eastern district of Tennessee, at the request of W. J. Haralson, one of the receivers of the Alabama and Chattanooga Railroad, appointed by Mr. Joseph P. Bradley, associate justice of the Supreme Court of the United States, *I* have caused to come before me Daniel Kaylor, who, being duly sworn, deposes and says: I have resided in Chattanooga, Tennessee, for 18 years; my age is 47 years. I am
1808 the owner of a large amount of real estate in Chattanooga, Tennessee; am acquainted with and have examined the plat of the property sought to be purchased, and in my opinion said property is worth ten thousand dollars per acre, and cheap enough at that.

D. KAYLOR.

Sworn to and subscribed before me this May 30th, 1873.

{ SEAL OF U. S. COMM'R DIST. OF EAST TENN. } DANIEL J. DUFFY, *U. S. Commissioner.*

In the circuit court of the United States, in the fifth judicial circuit, and district of Alabama, at Mobile, Alabama. In equity.

SETH ADAMS ET ALS., TRUSTEES, &C., *vs.* THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

1809 I, Daniel J. Duffy, a commissioner of the United States for the eastern district of Tennessee, at the request of W. J. Haralson, one of the receivers of the Alabama and Chattanooga Railroad Company, appointed by Mr. Joseph P. Bradley, associate justice of the Supreme Court of the United States, *I* have caused to come before me F. M. Gardenhire, a citizen of and landholder in the city of Chattanooga, who, being duly sworn, deposes and says he is acquainted with the value of real estate in Chattanooga; knows the property sought to be purchased by the receivers, and has also heard the order of his honor, W. B. Woods, of date of February 7th, 1873, relating to said purchase read, and in his opinion said land is worth ten thousand dollars
1810 *dollars* per acre.

F. M. GARDENHIRE.

Sworn to and subscribed before me this June 2nd, 1873.

{ SEAL OF U. S COMM'R FOR DIST. OF EAST TENN. } DANIEL J. DUFFEY, *U. S. Circuit Court Commissioner.*

In the circuit court of the United States, in the fifth judicial circuit, and district of Alabama, at Mobile, Alabama. In equity.

SETH ADAMS ET ALS., TRUSTEES, &C., *vs.* THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

I, Daniel J. Duffy, a commissioner of the United States cir-
1811 cuit court for the district of East Tennessee, at the request of W. J. Haralson, one of the receivers of the Alabama and Chattanooga Railroad, appointed by Mr. Joseph P. Bradley, associate justices of the Supreme Court of the United States, have caused to come before me G. A. Wood, an attorney at law, and citizen of Chattanooga,

Hamilton County, Tennessee, who, being duly sworn, states he has examined the plat of the property sought to be purchased by the receivers under the orders in this cause; states, after hearing the order of honorable W. B. Woods, judge, &c., relating to said purchase, says said property, in his opinion, is worth fully ten thousand dollars per
1812 acre; I mean that if I owned it, it should bring ten thousand dollars per acre, with the addition of reasonable commissions to the agent selling the same.

G. A. WOOD.

Sworn to and subscribed before me this June 2nd, 1873.

SEAL OF U. S. COMM'R FOR DIST. OF E. TENN. — DANIEL J. DUFFY, *U. S. Cir. Court Commissioner.*

In the circuit court of the United States, in the fifth judicial circuit, and district of Alabama, at Mobile, Alabama. In equity.

SETH ADAMS ET ALS., TRUSTEES, &C., *vs.* THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

1813 I, Daniel J. Duffy, a commissioner of the United States circuit court for the district of East Tennessee, at the request of W. J. Haralson, one of the receivers of the Alabama and Chattanooga Railroad, appointed by Mr. Joseph P. Bradley, associate justice of the Supreme Court of the United States, *I* have caused George S. Ruble, a citizen and landholder of Chattanooga, Hamilton County, Tennessee, to come before me, who, after being duly sworn, deposes and says that he has examined the plat of the property for which the receivers have an order of purchase, also the order of honorable W. B. Woods, justice, &c., and in his opinion said property is worth from nine to eleven
1814 thousand dollars per acre.

GEO. S. RUBLE.

Sworn to and subscribed before me this May 30th, 1873.

SEAL OF U. S. COMMR., &C. — DANIEL J. DUFFY, *U. S. Circuit Court Commissioner.*

In the circuit court of the United States, in the fifth judicial circuit, and district of Alabama, at Mobile, Alabama. In equity.

SETH ADAMS ET ALS., TRUSTEES, &C., *vs.* THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

1815 I, Daniel J. Duffy, a commissioner of the United States circuit court for the district of East Tennessee, at the request of W. J. Haralson, one of the receivers of the Alabama and Chattanooga Railroad, appointed by Mr. Joseph P. Bradley, associate justice of the Supreme Court of the United States, *I* have caused to come before me W. L. Eakin, of the firm of Eakin and Hope, attorneys at law, who, being duly sworn, upon oath states: I am a resident and landholder in Chattanooga, Tennessee. I am acquainted with the value of real estate in Chattanooga, and know the property sought to be purchased by the

receivers, &c., and in my opinion said property is worth ten thousand dollars per acre.

W. L. EAKIN.

Sworn to and subscribed to before me this June 2nd, 1873.
[U. S. COMMR.'S SEAL.] DANIEL J. DUFFY,
U. S. Cir. Court Commissioner.

In the circuit court of the United States for the fifth judicial circuit and district of Alabama, at Mobile, Alabama. In equity.

SETH ADAMS ET ALS., TRUSTEES, &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

I, Daniel J. Duffy, a commissioner of the United States circuit court for the district of East Tennessee, at the request of W. J. Haralson, one of the receivers of the Alabama and Chattanooga Railroad, appointed by Mr. Joseph P. Bradley, associate justice of the Supreme Court of the United States, have caused to come before me A. J. Wisdom, who, being duly sworn, deposes and says: I have been a resident of Chattanooga over 21 years; my age is 47 years. I am acquainted with the value of real estate in Chattanooga, Tennessee, and have examined the plat of the property sought to be purchased by the receivers, and the order of his honor W. B. Woods, judge, &c., and in my opinion the property is worth ten thousand dollars per acre.

A. J. WISDOM.

Sworn to and subscribed before me this May 30th, 1873.
[U. S. COMM'R'S SEAL.] DANIEL J. DUFFY,
U. S. Cir. Ct. Commissioner.

In the circuit court of the United States, in the fifth judicial circuit and district of Alabama, at Mobile, Alabama. In equity.

SETH ADAMS ET ALS., TRUSTEES, &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILroad Company et als.

I, Daniel J. Duffy, a commissioner of the United States circuit court for the district of East Tennessee, at the request of W. J. Haralson, one of the receivers of the Alabama and Chattanooga Railroad appointed by Mr. Joseph P. Bradley, associate justice of the Supreme Court of the United States, *I* have caused to come before me Thomas J. Carlile, a citizen of Chattanooga, Hamilton County, Tennessee, who, being duly sworn, upon his oath says that he has been a resident of the city of Chattanooga since January 1st, 1864; that he is the owner of real estate in Chattanooga; that he has been connected with the Alabama and Chattanooga Railroad ever since its construction commenced, and is now in the employ of the receivers appointed by Mr. Joseph P. Bradley, associate justice, &c. That he has examined the plat of the property in Stanton's subdivision, Chattanooga, Tennessee, sought to be purchased by the receivers, also the order of February 7th in the above entitled cause, relating to the purchase of said property; that he is familiar with the location of the lands to be

purchased, and is familiar with the value of property in Chattanooga, generally; that in his opinion the land in question is worth at least ten thousand dollars per acre now, with a constantly increasing value in the future.

THOS J. CARLILE.

Sworn to and subscribed before me this May 30th, 1873.

{ SEAL OF U. S. COMMR. } DANIEL J. DUFFY,
U. S. Cir. Court Commissioner.

In the circuit court of the United States, in the fifth judicial cir-
1821 cuit and district of Alabama, at Mobile, Alabama. In equity.

SETH ADAMS ET ALS., TRUSTEES &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

I, Daniel J. Duffy, a commissioner of the United States circuit court for the district of East Tennessee, at the request of W. J. Haralson, one of the receivers appointed by Mr. Joseph P. Bradley, associate justice of the Supreme Court of the United States, *I* have caused to come before me Thomas Webster, who, having been duly sworn, deposes and says: I have been a resident of Chattanooga since 1857; my age is 53
1822 years; and am the proprietor of Chattanooga Foundry and Machine-Works. I have examined the plat of the property in Chattanooga, Tennessee, which the receivers are seeking to purchase, and know said property is worth at least nine thousand five hundred dollars per acre.

THOMAS WEBSTER.

Sworn to and subscribed before me this May 30th, 1873.

{ SEAL OF U. S. COMMR., &C. } DANIEL J. DUFFY,
U. S. Commr., &c.

1823 In the circuit court of the United States, in the fifth judicial circuit and district of Alabama, at Mobile, Alabama. In equity.

SETH ADAMS ET ALS., TRUSTEES, &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

I, Daniel J. Duffey, a commissioner of the United States circuit court for the district of East Tennessee, at the request of W. J. Haralson, one of the receivers of the Alabama and Chattanooga Railroad, appointed by Mr. Joseph P. Bradley, associate justice of the Supreme Court of the United States, *I* have caused to come before me C. O.
1824 Whitney, a citizen of Chattanooga, Hamilton County, Tennessee, who, being duly sworn, upon oath says that he has examined the plat of the property in Stanton's subdivision sought to be purchased by the receivers, also the order in the above cause of February 7th, 1873, relating to said purchase, and that in his opinion said lands are worth at least ten thousand dollars per acre. This deponent further states he is a land-holder, and is familiar with prices of lands in Chattanooga, Tennessee.

CHAS. O. WHITNEY.

Sworn to and subscribed before me this May 30th, 1873.

{ SEAL OF U. S. COMMR. } DANIEL J. DUFFY,
U. S. Cir. Ct. Commissioner.

1825 In the circuit court of the United States, in the fifth judicial circuit and district of Alabama, at Mobile, Alabama. In equity.

SETH ADAMS ET ALS., TRUSTEES, &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

I, Daniel J. Duffy, a commissioner of the United States circuit court for the district of East Tennessee, at the request of W. J. Haralson, one of the receivers of the Alabama and Chattanooga Railroad, appointed by Mr. Joseph P. Bradley, associate justice of the Supreme Court of the United States, have caused to come before me A. D. Taylor,
1826 a citizen of and tax-collector for the city of Chattanooga, Tennessee, who, being duly sworn, deposes and says that he has been a resident of Chattanooga for thirty-one years; is a land-holder in various parts of Chattanooga; is familiar with real-estate valuation, knows the property sought to be purchased by the receivers in this cause, and says the same is worth from ten to eleven thousand dollars per acre.

A. D. TAYLOR.

Sworn to and subscribed to before me this June 4th, 1873.

In the absence of Chancellor D. M. Key, and the circuit judge
1827 being out of the city, I, James A. Caldwell, clerk and master of the chancery court of Hamilton County, Tennessee, do hereby certify that I am acquainted with the witnesses who signed the foregoing depositions, (except Van Ulrick;) that they are entitled to faith and credit as witnesses, citizens of Chattanooga, and a number of them real-estate owners in said city, and competent to testify as to the value of real estate in Chattanooga.

SEAL OF CHANCERY COURT, HAMILTON COUNTY, TENNESSEE.

A. J. CALDWELL,
Clerk and Master.

1828 *Cross-examination by attorney for the State of Alabama.*

In the circuit court of the United States, in the fifth judicial circuit and district of Alabama, at Mobile, Alabama. In equity.

SETH ADAMS ET ALS., TRUSTEES, &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILroad Company et als.

Supplemental affidavit of T. J. Carlile, whose affidavit has been heretofore taken in the above cause.

Quest. In the affidavit given by you before Mr. Duffy, United
1829 States commissioner, when you state that it—the property—is now worth ten thousand dollars per acre, do you mean that it is worth that with the present buildings upon it or without?

Ans. It is worth that without.

Quest. What facts lead you to the conclusion you have given as to the value of the property which you have stated?

Ans. First, it is my own opinion that property in this part of Chattanooga is now worth at least that amount per acre; second, that in two

or three years property will be worth more per front foot than in in any other part of Chattanooga; third, I own a lot in this subdivision
1830 of Chattanooga, and I would not take at that rate per acre.

Quest. Have you known of any sale or sales of land by the acre at that price or more; and, if so, what land, and to whom, in Chattanooga?

Ans. I do not know of any such valuable property in Chattanooga that is for sale by the acre, and do not think this would be for sale by the acre if it had not been occupied by the railroad.

Quest. Does land generally command so high a price in Chattanooga when sold in bulk in large tracts as when subdivided and sold in lots?

1831 Ans. It does not, from the fact that there is no land in Chattanooga in bulk situated so favorably for general business purposes as this. Land does not generally sell so high when subdivided and sold in lots; but this tract occupied by the railroad cuts diagonally and irregularly through the original tract, causing waste of space and making it, under all circumstances, worth more than it otherwise would be, even if not so favorably situated.

Quest. In your opinion, for what purposes, aside from railroad use as contemplated in this proposed sale, could this land be used or required so as to be worth that sum per acre?

1832 (J. C. Stanton objects to the above question. Objection overruled.)

Ans. For mercantile and manufacturing purposes.

Affiant states that he has lived in Chattanooga since January 1st, 1864; is acquainted with the values of real estate and the localities in which trade is locating; since that time values of real estate have increased very largely; the market value of all real estate, taken as a whole, in Chattanooga, has more than doubled since January, 1870. The assessed value of property has more than doubled in about that period of time.

The population and business of the city has largely increased.
1833 In 1870, the population was said to be six thousand some hundred; now it is supposed to be, and in my opinion is, from twelve to fifteen thousand. The business has more than doubled in the same time.

The erection of a first-class hotel, the building of a foundation for an opera house, the location of the post-office within Stanton's subdivision after the streets had been opened, made it an evident fact to business men that this was the most desirable locality for business (with the very best prospects in the future for an increased valuation) over any other in the city of Chattanooga, consequently the property rose rapidly in value, and many permanent buildings have been erected on it.

1834 There is and has always been, since I have been well acquainted in Chattanooga, an impression or belief that all the depots and business of the various railroads terminating in Chattanooga would eventually be located and done in this tract of land, and for that reason business men have sought to purchase and hold portions of this tract of land with a view of its great value.

At this present time there is no demand for any portion of the tract of land sought to be purchased by the receivers for merchantile purposes, except that portion fronting Market street and that portion where the lots would run through from Market street to Divine street.

1835 Lots for manufacturing purposes can be bought in some portions of Chattanooga at a much less price per acre, but none can be had for less at points where the railroads converge as they do in the tract sought to be purchased.

I have made no calculations as to what buildings could be erected and rented for in estimating the value of this property, but have estimated it from my convictions and my judgment.

I own a lot on Montgomery avenue near Market street, 25 feet front by 130 feet deep. I hold it at the value of $1,000—usual terms of selling property.

I have no interest in the result of this proceeding.

THOS. J. CARLILE.

1836 Sworn to and subscribed before me this June 5th, 1873.

[COMM'S SEAL.] DAN. J. DUFFY,
U. S. Commissioner.

Supplemental affidavit of C. O. Whitney.

In my affidavit made heretofore in this case, I say I have seen the plat in Stanton's subdivision. In making the estimate of value, I make my estimate exclusive of the buildings placed there by the Alabama and Chattanooga Railroad Company. I made over two years ago, in Stanton's subdivision on Divine street, a purchase of several lots about
279 x 140, for which I paid seven thousand dollars; the property
1837 is on Divine street, between Alabama street and Montgomery avenue, and on the east side of Divine street. This property was unimproved, and no hotel or other improvements near it, when I purchased. My reasons for my valuation is that I think that the centre of Chattanooga will be on this property; I mean in the Stanton's subdivision. I judge all property by what has been heretofore sold and prices realized. I think this would be a large price for a farm, but for other purposes and manufacturing purposes it is worth what I stated. In my opinion the different railroads will in a very short time be compelled to purchase property adjoining this for general railroad
1838 purposes, such *such* as tracks, shops, round-houses, &c., when it will be worth double the amount asked. I have no interest in this matter.

CHAS. O. WHITNEY.

Sworn to and subscribed before me June 5th, 1873.

[U. S. COM'R'S SEAL.] DAN. J. DUFFY,
U. S. Commissioner.

JOHN P. LONG, a witness for the State of Alabama, being duly sworn, states:

Quest. State your occupation, where your residence is, how long you have resided in Chattanooga, and if you know the twenty-five
1839 acres of land proposed to be sold by J. C. Stanton to the receivers, and what, in your opinion, it is worth exclusive of buildings, in cash.

Ans. I am a real-estate agent; reside in Chattanooga; have resided there for the last thirty-seven years. I know the twenty-five acres in question, but I am not familiar with the sales made by Mr. Stanton, and when I state my opinion as to the value of said land, I base it upon the prices I have known other lands in the neighborhood to have been sold at. Therefore, taking the lands in the shape and location indicated by map, I would consider the land in question to be worth from five to six thousand dollars per acre.

1840 Affiant states: When the town was first located the greater portion of it was near the river where the general business was

located. But since the war the business portion has removed nearer railroads, and in the direction of the property in question, and some of it has increased several hundred fold; within the last three years there has been a large increase in property, and it has been much greater off from the river than near the river; some near the river has not increased at all.

JNO. P. LONG.

Sworn and subscribed to before me this June 5th, A. D. 1873.
[SEAL.] DAN. J. DUFFY,
U. S. Commissioner.

1841 JOHN B. WEAVER, the next witness for the State of Alabama, being duly sworn, says:

I have been a resident of Chattanooga since 1858. I consider Chattanooga has increased more in the last few years than for all the remaining time I have been here. I think in population it has increased double, and in general business it has increased greatly, particularly in manufacturing business. In a portion of the city it has increased largely; near the river it has about held its own; in the direction of Stanton's subdivision has increased largely. I was a member of the board of aldermen; the assessments in 1869 was something over two millions of dollars, and in 1872 the amount reached about six
1842 millions, notwithstanding exemptions of some property. I have examined the plat of the property proposed to be sold to the receivers, and in my opinion said property is worth seven thousand dollars per acre, for railroad purposes, without reference to buildings placed upon it.

J. B. WEAVER.

Sworn to and subscribed to before me June 5th, 1873.
[SEAL.] DAN. J. DUFFY,
U. S. Commissioner.

PARKS FOSTER, next being duly sworn, deposes and says:

About a month since I purchased a tract of land, lying on
1843 Griffin, Branham, and Gilmer streets, about a quarter of a mile from the tract sought to be purchased by the receivers; there is about twenty-seven acres, including streets. I gave sixteen thousand dollars, half cash and balance in a year. I know the property sold by Crutchfield to Stambaugh. I bought some about two years ago adjoining this latter tract, and paid one thousand dollars per acre. I understand the corner of the Crutchfield tract touches a corner of the west boundary of the Stanton's subdivision. I know the property sold by Crutchfield to Stambaugh, and the reported price was, for two hundred acres one hundred thousand dollars, part cash and part in payments.

1844 By the master:

I sold a little of the property I purchased about a month ago. I sold at an advance, a few days ago, of five hundred per cent. I also bought a lot in Stanton's subdivision, on Market street, 25 x 150 feet. I paid 2 years ago ($960) nine hundred and sixty dollars for it; it is either two or three hundred feet of this tract sought to be sold the receivers. I would further state that property brings a larger price when sold on a credit than it does for cash. I would further state that

the property I purchased, that the streets were not graded, nor worked, and that the property is crossed by an embankment some 10 or 12
1845 feet high on the East Tennessee and Virginia Railroad, and no streets across the embankment. I came to this place in March,
1870. The city has increased more than half in substantial buildings; I mean double the number of substantial buildings, I should say. Since I came here in 1870, property at the river, I think, has depreciated in value, but in this direction, I mean towards Stanton's subdivision, that property has increased very largely in value. I valued this property in a former affidavit at six thousand eight hundred. I could make that out of it in cash, and exclusive of buildings. The circumstances that has increased the value of real estate in this locality is that the streets have been opened, and that a large hotel has been
1846 built, and I think it will be the centre of Chattanooga in a few years.

PARKS FOSTER.

Sworn to and subscribed before me June 5th, 1873.
[SEAL.] DAN. J. DUFFY,
U. S. Commissioner.

THE UNITED STATES OF AMERICA,
Eastern District of Tennessee:

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States for the eastern district of Tennessee, John L. Divine, who, being first duly sworn, de-
1847 poses and says that he has made an affidavit as to the value of land in Stanton's subdivision to the city of Chattanooga, which Mr. Stanton offers to sell to the receivers of the Alabama and Chattanooga Railroad; that he then placed the value of said land at ten thousand dollars per acre. The valuation was made exclusive of the buildings thereon. There had been erected on other portions of Stanton's subdivision a hotel, plaining-mills, store-houses, and post-office and flouring-mills and other buildings. I base my opinion upon the actual value of the property, because it could be sold for double the price if disposed of in small lots. It has a lot 50 x 231 feet on Market
1848 street, adjoining the property above referred to, that he would not sell for seven thousand dollars; the lot is unimproved; and that the land in controversy, adjoining said lot, is worth as much for the same quantity. He further states that he owns a lot within 200 yards of the property offered to the receivers, 25 feet front and about 100 feet deep, but on another street, which he was recently (about 10 days since) offered sixteen hundred dollars, and refused to take it. This lot was unimproved. He thinks the land, if subdivided, would be in demand for both business and speculation purposes; that the portion of the property fronting on Market street and running back to Divine
1849 street, is the only portion of the 25 acres that he considers valuable for business purposes at present.

Further this deponent saith not.

JNO. L. DIVINE.

Sworn to and subscribed before me this 6th day of June, 1873.
[SEAL.] J. M. JOHNSON,
U. S. Commissioner E. Dist. Tenn.

THE UNITED STATES OF AMERICA,
Eastern District of Tennessee:

Personally appeared before me, J. M. Johnson, a commissioner ap-

pointed by the circuit court of the United States for the eastern district of Tennessee, Morris Bradt, who, being duly sworn, deposes and
1850 says that he has lived in Chattanooga nearly 20 years, and that his business for the last few years has been that of real-estate agent. That he has examined the plat and is well acquainted with the land, and that he made his estimate, at close figures, at six thousand dollars an acre. This is without reference to the buildings upon it. He makes his estimate by deducting forty per cent. for streets, and then subdividing an acre into eight lots 25 x 150 feet. He further states that a general average, the price of real estate has not advanced within the last eighteen months. He further states that he was city
1851 assessor for the year 1872. In his estimate of the value of lots 25 x 150 feet on Market street. I estimated them at forty dollars per foot front. At that rate it would make the land worth eight thousand dollars per acre, less the streets. Stanton's subdivision was assessed for taxation in the year 1871 at three hundred thousand dollars, by J. S. Wilste, city assessor. The hotel was in course of construction, nearly completed; the depot was completed, and there were other buildings in course of construction, but I do not know whether these buildings were included in Mr. Wilste's assessment or not. There were eight lots in the subdivision that were not included in Wilste's assessment. That the property sought to be acquired by the receivers
1852 was about the average of the entire subdivision. He was assessor for the year of 1872, and in making the assessment the hotel erected on the property was exempt from taxation by an ordinance of the city; that he estimates the value of property fronting on Market street, running back 100 feet on west side, between 8th and 9th streets, at one hundred and seventy-five dollars per foot front; this without the improvements. If the lot run through to Railroad avenue, it would be worth two hundred and twenty-five dollars per foot front. He made the estimate of the value of the property in controversy at the instance of both parties interested.
1853 Further, this deponent saith not.

MORRIS BRADT.

Sworn to and subscribed before me this 6th day of June, 1873.
[SEAL.] J. M. JOHNSON,
U. S. Commissioner East. Dist. of Tenn.

THE UNITED STATES OF AMERICA,
Eastern District of Tennessee:

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States for the eastern district of *of* Tennessee, Daniel Kaylor, who, being duly sworn,
1854 deposes and says that the estimate of the value of the property sought to be purchased of J. C. Stanton by the receivers of the Alabama and Chattanooga Railroad, made by him in a former affidavit, was made without including the improvements thereon. His estimate was made of the value from sales of property in the vicinity, made by Crutchfield to Stambaugh, Clay Evans to Wasson Car Works, J. L. Divine to Wasson Car Works, McMillen to Todd and others, and then upon my own personal knowledge of the value, having sold about one hundred thousand dollars' worth in small lots, and in the vicinity of the Stanton
1855 tract of land, within the last five years, at over thirty thousand dollars per acre. The property referred to was in a block between 8th and 9th streets, on Market street on west side and running back to

Railroad avenue. That this property was among the most valuable in the city. He is informed that the transfers of real estate referred to above by Crutchfield, McMillen, Divine, and Evans was for part cash, the balance on time. That J. L. Divine sold four acres at two thousand dollars per acre; that William Crutchfield sold two hundred and seven acres for one hundred thousand dollars; that Mr. McMillen sold sixty
acres, more or less, for thirty-one thousand dollars. The property
1856 proposed to be sold to the railroad receivers is very much more
valuable than the tracts mentioned above. He considers that all choice property in the city of Chattanooga has advanced at least 50 per cent. within the last two years.

Further this deponent saith not.

D. KAYLOR.

Sworn to and subscribed before me this 6th day of June, 1873.

{ SEAL OF U. S. COMMR. }

J. M. JOHNSON,
U. S. Commissioner East. Dist. Tenn.

1857 THE UNITED STATES OF AMERICA,
Eastern District of Tennessee:

Personally appeared before me, J. M. Johnson, a commissioner appointed by the circuit court of the United States for the eastern district of Tennessee, R. L. Watkins, who, first being duly sworn, deposes and says that the valuation that he placed upon the tract of land sought to be purchased of J. C. Stanton by the receivers of the Alabama and Chattanooga Railroad, in a former affidavit, was made without the buildings or improvements being taken into consideration. He thinks
that the locality and the advantages it offers for building or rail-
1858 road purposes warrants the estimate he placed upon it. If he
had any particular or special use for the land he would be willing to pay that price for it.

Further this deponent saith not.

R. L. WATKINS.

Sworn to and subscribed before me this 6th day of June, 1873.

[SEAL.]

J. M. JOHNSON,
U. S. Commissioner East. Dist. Tenn.

THE UNITED STATES OF AMERICA,
Eastern District of Tennessee:

Personally appeared before me, J. M. Johnson, a commissioner
1859 appointed by the circuit court of the United States for the eastern district of Tennessee, A. D. Taylor, who, first being duly sworn, deposes and says that the valuation made in a former affidavit of the value of certain property that Mr. Stanton offers to sell to the receivers of the Alabama and Chattanooga Railroad was without including the improvements thereon. In estimating the value of the land at from ten to eleven thousand dollars per acre, I was influenced by the assessment of the value of the Stanton subdivision, with some few lots taken out, and without improvements, which was made in 1871, which
assessment was three hundred thousand dollars, and that would
1860 be rising of four thousand dollars per acre, including streets, and
as the land proposed to be sold in the central portion of the tract, it is worth more than the average. Lands in this subdivision have enhanced greatly in value since 1871.

Further this deponent saith not.

A. D. TAYLOR.

Sworn to and subscribed before me this 6th day of June, 1873.
[SEAL.] J. M. JOHNSON,
U. S. Commissioner East. District of Tennessee.

1861 [Stanton House, Sergeant & Born, proprietors, Chattanooga, Tenn.]

In my former affidavit given in the case of Seth Adams et als., trustees, &c., vs. The Alabama and Chattanooga Railroad et als., I will further state, for the information of the court and as explanatory thereof, that my valuation of the lands sought to be purchased by the receivers, I valued the lands exclusive of the value of the buildings placed thereon by the Alabama and Chattanooga Railroad Company.

S. A. COREY.

1862 The affiant further states that he estimated the price in former affidavit at ten thousand dollars per acre. I made my estimate from the value of property in the vicinity of Stanton's property and what said property sold for.

S. H. COREY.

Sworn to and subscribed before me this 6th day of June, 1873.
[SEAL.] J. M. JOHNSON,
U. S. Commr. East. Dist. Tenn.

Supplementary affidavit.

In my former affidavit in the case of Seth Adams et als. vs.
1863 The Alabama and Chattanooga Railroad Company et als., as to the valuation of the land sought to be purchased in this cause by the receivers, I further state, as explanatory thereof, that my estimate of the value of said lands was made without reference to the value of the buildings thereon; that is, that the lands would be of about the value therein stated, if the buildings thereon should all happen to be burned or otherwise destroyed.

G. A. WOOD.

Sworn to and subscribed before me this June 6th, 1873.
{ COMR'S SEAL FOR } DANIEL J. DUFFY,
{ E. DIST. OF TENN. } *U. S. Commr.*

1864 Personally appeared before me, J. M. Johnson, a commissioner of the circuit court of the United States for the eastern district of Tennessee, John C. Stanton, of lawful age, who, being duly sworn, deposes and says that the Alabama and Chattanooga Railroad Company owned no ground in Chattanooga on which to erect depots, round-house, shops, or to lay tracks for standing cars, or for right of way, or for any purpose whatever, and the only tract of land suitable for this purpose in Chattanooga was owned by the heirs of Ker Boyce, deceased. I saw Mr. J. P. McMillan in regard to the purchase of
1865 the land, and he informed me that Mr. Boyce had held the land at $2,000 per acre, and he thought he would take that price for it then. As agent of the Alabama and Chattanooga Railroad, I had been notified that the company had to remove from and cease using the tracks and ground belonging to the Nashville and Chattanooga Railroad, which the Alabama and Chattanooga Railroad had been using up to that time. I then notified the officers of the Alabama and Chattanooga Railroad of

the fact of having to move the tracks, &c., and they directed me to ascertain where a suitable location could be purchased. I then went
1866 to see Mr. McMillan, the agent of Mr. Boyce, again; he would not agree to sell the quantity of land wanted by the railroad company by cutting it out of the main tract in the direction required, for the price he had previously mentioned, until he could lay the matter before Mr. Boyce; in the mean time, however, he would and did give permission to put the tracks down and lay the foundation for the shops and the depot, leaving the price for the land to be settled in the future. After the freight-depot had been put under roof, the shops erected, and the machinery set up, and other improvements in course of erection, Mr. Boyce
1867 came to Chattanooga, examined the tract of land occupied and sought to be purchased by the Alabama and Chattanooga Railroad Company, and declined to accept less than $2,500 per acre for that so occupied, but he adhered to his proposition to accept $2,000 per acre for the whole tract of land. I referred this proposition to the board of directors and they refused to purchase. I also referred the matter to Ex-Governor Patton, the vice-president of the company, who was then in person in Chattanooga, and he said it was too much and that he would not take the land at that price; finally I purchased the
1868 whole tract of land of Mr. Boyce at $2,000 per acre, then offered to the president and board of directors of the Alabama and Chattanooga Railroad Company to sell all or any part of the land to them at the price Mr. Boyce had asked. I made this offer several times, and each time it was declined. Since then I have held the land, paid interest on the purchase-money, expended a large amount in grading the streets, and have donated a considerable portion of the land to the city of Chattanooga for opening of streets; have paid taxes upon the property, and since I have owned the property the improve-
1869 ments that have actually been made by myself on my own property and on that which I have sold to others, and the improvements made on the adjoining property belonging to others, and the prospect in the immediate future of other valuable improvements, has caused a real and genuine appreciation in the market-value of the property sought to be purchased by the receivers. I feel assured that $10,000 per acre is a low price for the property.

The bond for title, which is hereto attached and made a part hereof, is a true and perfect copy of the original.

J. C. STANTON.

Sworn to and subscribed before me this 6th day of June, 1873.
[SEAL.] J. M. JOHNSON,
U. S. Comm'r East. Dist. Tenn.

1870 In the circuit court of the United States, in the fifth judicial circuit, and district of Alabama, at Mobile, Alabama. In equity.

SETH ADAMS ET ALS., TRUSTEES, &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD et als.

Personally appeared before me, the undersigned, Henry E. Waite, who, being duly sworn, deposes and says that he was the local treasurer of the Alabama and Chattanooga Railroad at the time of the negotiations for the purchase of the lands now known as Stanton's sub-
1871 division, and that T. P. McMillan, agent for J. P. Boyce, and J. C. Stanton as the superintendant of the Alabama and Chattanooga

Railroad Company, made an agreement as to price of purchase of said lands; and after the shops were built and the general offices and depot commenced, at a meeting when Mr. J. P. Boyce and T. P. McMillan and Governor Patten, who was then vice-president of the road, was present, he, Governor Patten, refused to take the lands, notwithstanding said buildings were upon them, when Mr. J. C. Stanton purchased them in his own right.

HENRY E. WAITE.

Sworn to and subscribed before me this May 30th, 1873.
[SEAL.] DAN. J. DUFFY,
U. S. Commr.

1872 *Title bond.*

By virtue of power vested in me of the last will and testament of Ker Boyce, deceased, I, James P. Boyce, executor of the said Ker Boyce, deceased, am held and firmly bound unto John C. Stanton in the sum of three hundred and thirty-six thousand dollars, for the payment of which I bind myself as said executor unto the said John C. Stanton, his heirs and legal representatives.

But the condition of the above obligation is such, that whereas I, the said James P. Boyce, as executor of Ker Boyce, deceased, have this day bargained and sold to the said John C. Stanton the following-
1873 described lands situated in the city of Chattanooga, Hamilton County, State of Tennessee, to wit, a tract of land containing eighty-four and eight-tenth' acres, more or less, bounded upon the south by a sectional line, upon which Montgomery avenue is located; on the east by the lands belonging to the estate of Dr. Tomlinson Fort, deceased; on the north by the right of way of the Western and Atlantic Railroad, the lands of the Nashville and Chattanooga Railroad Company, and the five-acre lot owned by T. K. Warnacutt, and upon which R. M. Hook now resides; and bounded on the west by the right
1874 of way of the Nashville and Chattanooga Railroad Company, for the consideration of the sum of two thousand dollars per acre, of which sum the said John C. Stanton has paid twenty thousand dollars in hand and the balance is to be paid in installments of twenty thousand dollars at the end of each and every ninety days from this date, with interest at six per cent. per annum until the whole sum and interest is paid.

It is expressly understood that an accurate survey of the said lands shall be made by a competent surveyor or engineer, in order to ascertain the exact area of the lands included in the boundary aforesaid, and the said John C. Stanton is to pay for said land at the rate of two
1875 thousand dollars per acre.

Now, if upon the payments of the aforesaid installments of twenty thousand dollars each, with their interest, I, James P. Boyce, as executor of Ker Boyce, deceased, make or cause to be made to the said John C. Stanton, his heirs or assigns, a good and sufficient title, with covenants of seizure and warranty in as full and ample a manner as I, as said executor, can or ought to warrant said title, then this obligation to be void; otherwise to remain in full force and effect.

Witness my hand and seal this eleventh day of January, in the year of our Lord one thousand eight hundred and seventy.

1876 JAMES P. BOYCE, [SEAL.]
Executor of the Estate of Ker Boyce, Deceased.

Witness:
J. P. McMILLEN.
HENRY E. WAITE.

STATE OF TENNESSEE,
Hamilton County:

This day personally appeared before me, R. H. Guthrie, clerk of the county court for said county, J. P. McMillen and Henry E. Waite, subscribing witnesses to the within deed, who, being first duly sworn, depose and say that they are acquainted with James P. Boyce, executor of the estate of Ker Boyce, deceased, the bargainor, and that he
1877 acknowledged the execution of the same in their presence to be his act and deed, upon the day it bears date, for the purposes therein expressed.

Witness my hand at office in Chattanooga this 24th day of February, 1870.

R. H. GUTHRIE,
Clerk.
Per TOM F. BLACKFORD,
D. C. C. C.

STATE OF TENNESSEE,
Hamilton County:

Register's office, February 25th, 1870, at 4 o'clock p. m. Then was the foregoing deed with its certificate received for registration, with 25 cents United States internal-revenue stamp attached and can-
1878 celled, and is now of record in book (S,) pages 412, 13 & 14.

Witness my hand at office in Harrison the day and date last above written.

JOHN F. HAMILL,
Register.

[Twenty-five cents U. S. revenue.]

A true copy.

DANIEL J. DUFFY,
U. S. Commr.

Acknowledged 24th February, 1870.

Filed July 19th, 1873.

N. W. TRIMBLE,
Clerk.

1878½ *Certificate of register.*

OFFICE OF THE REGISTER OF HAMILTON COUNTY, TENNESSEE,
Chattanooga, Tenn., July 16th, 1873.

I, John F. Hamill, register of said county, do hereby certify that I have examined the records of said county, and after careful examination find no mortgages or trust-deeds registered against the property embraced in the sale to the receiver of the Alabama and Chattanooga Railroad in the city of Chattanooga, Tennessee, in Stanton's subdivision.

JOHN F. HAMILL,
Register.
H. CLAY BECK,
D. Re.

1879 STATE OF TENNESSEE,
Hamilton County:

I, James A. Caldwell, clerk and master of the chancery court of Hamilton County, do hereby certify that John F. Hamill is the register of Hamilton County, Tennessee, and that H. Clay Beck, in his absence, acts for him, and that their acts as such are entitled to full faith and credit.

Witness my hand and seal of said court at office in Chattanooga this 16th day of July, 1873.

{SEAL OF CHANCERY COURT OF HAMILTON CO.}

J. A. CALDWELL,
C. & M.
By J. T. HILL,
D. C. & M.

Exhibit N referred to in supplemental report.
July 19th, 1873.

WM. G. JONES,
Sp'c'l Master.

1880 STATE OF TENNESSEE,
Chancery Court of Hamilton County:

At a special or adjourned term of said chancery court, begun and held at the court-house in the city of Chattanooga, Hamilton County, Tennessee, on the first Monday, it being the fifth day of May, in the year of our Lord one thousand eight hundred and seventy-three, present and presiding the honorable D. M. Key, chancellor, &c., the following among other proceedings were had, to wit:

Decree.

THE STATE OF ALABAMA
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als. } Consolidated causes.

1881 This cause comes on to be heard on this 12th day of May, 1873, on the pleadings and the steps heretofore taken in the cause; and by consent of all the parties, the heirs and legatees of Ker Boyce, deceased, to wit: Samuel F. Boyce, of Chattanooga, Tennessee, and William G. Lane and wife, Mary C. Lane, and their children, Amanda B., William H., Anna K., Susan E., and Ker B. Lane, of New York; and Mary C. Slade and husband, Fred. J. Slade, of Trenton, N. J.; and the following minor children of said W. G. Lane and wife: Charlotte R., James B., Agnes J., Lizzie L., John A., and Ralph Lane, of New York; and Henry A. Tupper and wife, Nancy B. Tupper, and their son
1882 Freeman Tupper, and their minor children, Ker B., Tristram, Paul J., Mary C., Lottie, and Frederick Tupper, all of Richmond, Virginia; and the married daughter of said H. A. Tupper and wife, viz, Amanda F. Hamilton, and husband, Thomas A. Hamilton, of Thompson, McDuffield County, Georgia; also Cornelius L. Burkeneyer and wife, Charlotte R. Burkeneyer, and their minor daughter, Mary L. Burkeneyer, all of Charleston, South Carolina; and Frederick Lawrence and wife, Elizabeth B. Lawrence, and their minor children, viz, Lydia, Mary B., Elizabeth B., and Virginia L. Lawrence, all of New York; also, Ker Boyce and wife, Mary M. Boyce, of Augusta, Georgia; also Cath-
1883 arine L. Boyce, widow of John I. Boyce, of Newberry, South

Carolina, and their lunatic daughter, Eliza M. Boyce, now in the lunatic asylum at Columbia, South Carolina, are made parties defendants to each of the bills filed and consolidated in this batch of causes. The said adults, by their solicitor, enter their appearance, and the said married women and lunatic and the minors by their next friend James P. Boyce, and by consent of all the parties are made, and hereby enter their appearance as parties defendants by consent of all the parties.

And it is therefore ordered by the court that James P. Boyce
1884 be, and he is hereby, authorized to appear and answer for said married women and lunatic, or their next friend, and is hereby appointed guardian ad litem for the minors and may answer for them.

By consent of all the parties it is further ordered, adjudged, and decreed by the court, that the said James P. Boyce may file one answer in this consolidated cause, to be filed for himself and the others, the heirs and legatees of said Ker Boyce, deceased, as next friend and guardian ad litem for the said infants and as executor of the will of Ker Boyce, deceased, which answer, when so filed, shall have the force
1885 and effect and be regarded and treated as if the same were the several answers of the said the executor and heirs and legatees of said Ker Boyce, deceased, to each of the several bills filed heretofore and consolidated with these causes, which is done.

And by consent of all the parties all judgments pro confesso, heretofore rendered in any one or more of the causes consolidated and heard, together with this cause, as against any one or more of the heirs and legatees of said Ker Boyce, deceased, or said James P. Boyce, as executor of said estate, be, and the same are hereby, set aside, and the
1886 answer as hereinbefore decreed and herein filed shall have the full force and effect of an answer by said parties to all of said bills, with the same force, effect, and weight as if said judgments by default or pro confesso had not been heretofore entered.

I, James A. Caldwell, clerk, and master of said court, do hereby certify that the foregoing five pages contain a full, true, and correct transcript of a decree rendered in said above-entitled cause in this court, at the time and as therein indicated, as the same now appears of record in my office.

1887 Witness my hand and seal of said court at office in the city of Chattanooga this 14th day of July, 1873.

SEAL OF CHANCERY CT. OF HAMILTON CO., TENN.

JAMES A. CALDWELL.
C. & M.

By JESSEE T. HILL,
D. C. & M.

Part of Exhibit L referred to in supplemental report.
July 19th, 1873.

WM. G. JONES,
Sp'l Master.

Decree.

STATE OF TENNESSEE.
Chancery Court of Hamilton County:

At a special or adjourned term of said chancery court, begun
1888 and held at the court-house in the city of Chattanooga, Hamilton County, Tennessee, on the first Monday, it being the 5th day of May, in the year of our Lord one thousand eight hundred and seven-

ty-three, present and presiding the honorable D. M. Key, chancellor, &c., the following among other proceedings were had, to wit:

JAMES P. BOYCE ET ALS.
vs.
JOHN C. STANTON ET ALS.

Be it remembered that on this 12th day of May, 1873, the above-named adult complainants, by their solicitor, presented in open court their original bill against the following-named defendants, naming the heirs and legatees of said Ker Boyce, deceased, and James A. Whiteside, deceased, serriatum and by name in said bill, which is sworn to; and the court is pleased to order, adjudge, and decree that said James P. Boyce, one of the said complainants, may act as the next friend of the married women and the minor complainants, and as the committee or next friend of the lunatic complainant; that the injunctions heretofore granted in the cases of "H. L. Whiteside vs. J. P. Boyce et als." and the several cross-bills to said cause, and the case of "W. W. Anderson vs. H. L. Whiteside et als.," and the several cross-bills in said cause, all of which are pending in this court undetermined, be so far modified as to permit this bill of complainants J. P. Boyce et als. to be filed as an ori. bill, process issued as prayed, and the same to proceed to an adjudication upon the excution by complainants of a prosecution-bond, as required by law.

And thereupon complainants executed said bond for prosecution of said suit and filed their bill.

I, James A. Caldwell, clerk and master of said court, do hereby certify that the foregoing two pages contain a full, true, and correct transcript of a decree rendered in said above-entitled cause at the time and as therein indicated, as the same now remains of record in my office.

Witness my hand and seal of said court, at office in Chattanooga, this 14th day of July, 1873.

SEAL OF CHANCERY COURT, HAMILTON COUNTY, TENNESSEE.

JAMES A. CALDWELL,
C. and M.
By JESSE T. HILL,
D. C. & M.

Part of Exhibit L referred to in supplemental report.
July 19th, 1873.

WM. G. JONES,
Sp'l Master.

THE WESTERN UNION TELEGRAPH COMPANY.

The rules of this company require that all messages received for transmission shall be written on the message-blanks of the company, under and subject to the conditions printed thereon, which conditions have been agreed to by the sender of the following message.

WILLIAM ORTON,
Pres't.
GEO. H. MUMFORD,
Secretary, New York.

JOHN VAN HORNE,
Gen'l Supt., Louisville, Ky.

[Dated Macon, Ga., 16, 1873; received at July 16, 12.]

To Mr. THOS. J. CARLILE:

Heirs of Ker Boyce consent sale. J. P. Boyce to J. C. Stanton of Stanton's addition to Chattanooga, Tennessee, is valid; that money for same be paid into chancery court at Chattanooga.

TOM & FOOT,
Solicitors.

1893 If above not satisfactory, send me what you want.
43 coll. 10 ex. w'ds.

WESTERN UNION TELEGRAPH COMPANY.

The rules of this company require that all messages for transmission shall be written on the message-blanks of the company, under and subject to the conditions printed thereon, which conditions have been agreed to by the sender of the following message.

WILLIAM ORTON,
President.
GEO. H. MUMFORD,
Secretary, New York.

JOHN VAN HORNE,
Gen'l Supt., Louisville, Ky.

[Dated Athens, 15th July, 1873; received at Chattanooga 15th July, 4.15 p. m.]

To D. J. DUFFY:

1894 No objections whatever. See Vandyke at office; will sign any agreement necessary.

J. B. COOKE.

12 collect.

Agreement of counsel.

In the chancery court at Chattanooga, Tennessee.

W. W. ANDERSON
vs.
H. L. WHITESIDE ET ALS.

It is agreed by the counsel representing the various parties, complainants and respondents, in this cause that the purchase-money due from J. C. Stanton to J. P. Boyce, executor, &c., Kerr Boyce, deceased, for the land sold by said Boyce, executor, &c., to said Stanton in
1895 the city of Chattanooga, Tennessee, may be paid into the office of the clerk and master of said court before the next regular term of said court, to be held by said clerk subject to such orders or decrees the court may make touching the same.

It is further agreed by all the counsel that the said sale to J. C. Stanton is a good and valid sale.

But the attorneys of W. W. Anderson do not admit that Anderson has not title to the land; but so far as we can, we agree that the money

may be paid into court, and whatever interest Anderson may have, shall be satisfied out of the purchase money.

1896 July 16th, 1873.

R. HENDERSON,
Attorney for W. W. Anderson.
VAN DYKE, COOK & VAN DYKE,
Solicitors for Whiteside estate.
S. A. KEY,
Solicitor for Whiteside.

Exhibit L. Part of Exhibit L referred to in supplemental report. July 19, 1873.

WM. G. JONES,
Sp'l Master.

Filed July 19th, 1873.

N. W. TRIMBLE,
Clerk.

1897 *Resignation of Lewis Rice and Wm. J. Hanalson, receivers of the Ala. & C. R. Rd.*

Circuit court of the United States for the district of Alabama, at Mobile, in the fifth judicial circuit of the United States. In equity.

BETWEEN SETH ADAMS, FRANCIS B. LOOMIS, and John C. Stanton, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company, complainants,
and
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, trustees, &c., and others, defendants.

To the circuit court of the United States for the district of Ala-
1898 bama, at Mobile, in the fifth judicial circuit of the United States, and to the honorable judges thereof:

As one of the receivers appointed by honorable Joseph P. Bradley, associate justice of the Supreme Court of the United States, and a judge of said circuit court, under and by virtue of an order in said cause dated August 26th, 1872, I now hereby tender my resignation as such receiver, to take effect immediately upon the appointment of my successor. My resignation is tendered now, after more than a year of difficult service in managing the affairs of said railroad, because the parties who contemplate becoming the purchasers of said railroad
1899 have so far matured and perfected their plans that a change in the management and receivership now becomes necessary, and this change I am satisfied will contribute materially to the success of this railroad enterprise and result in placing it upon a basis where the interests of the first-mortgage bondholders will be better and more effectually protected than ever before.

I therefore ask from the court to be relieved from the duties and re-

sponsibilities now devolving upon me as one of said receivers, upon my resignation taking effect.

Boston, September 26th, 1873.

LEWIS RICE,
Receiver.

I concur in the above, and also resign.

Respectfully,

WM. J. HARALSON,
Receiver.

Filed as of Sept. 30th, 1873.

N. W. TRIMBLE,
Clerk.

1900 *Report of receivers, 30th Sept., '73.*

To the honorable the judges of the circuit court of the United States presiding for the southern district, at Mobile, Alabama, for the district of Alabama:

We the undersigned, the receivers of the Alabama and Chattanooga Railroad, respectfully beg leave to submit that in your honors' order appointing us receivers of the Alabama and Chattanooga Railroad, it is provided that if a satisfactory arrangement can be made between the holders of the first-mortgaged bonds and the State of Alabama, and the said State shall sell the said property, and if the purchasers shall be willing to take said property without further outlays for repairs thereon, the receivers thus appointed are directed to turn over the property of the Alabama and Chattanooga Railroad to such purchasers, and being informed officially and in expectation that the governor of the State of Alabama, as well as other parties interested, are about consummating an arrangement and sale, in accordance with said order, and as it is agreed between the State of Alabama and the proposed purchasers that new receivers shall be appointed in our place, we therefore submit the following report, which exhibits the result of our operations, in-

1901 cluding the reports previously made, which are prayed to be taken as a part of this report.

When we were appointed receivers, on the 26th day of August, 1872, we found over one hundred cars in the ditches along the line of the road, locomotive engines damaged and destroyed, three bridges entirely washed away and many stock-gaps, several trestles and several miles of road-bed entirely washed away, fifty-six miles of road where trains could not run over the tract, and grass and weeds grown to such a height on the road-bed from York, Alabama, to Atalla, Alabama, a distance of one hundred and eighty-one miles, that it was almost impossible to run trains; the depots, tool and section houses, were stripped of furniture, stationary track-tools, road-cars, and everything moveable—in short, the road and rolling-stock was a wreck from one terminus of the road to the other.

We have removed the damaged engines and cars from the ditches to the shops, have repaired and in some instances have rebuilt them; have rebuilt the bridges, repaired the trestles, and tract; have stocked the shops and depots with nessessary material and tools, and put all

1902 the property in fine working condition. Owing to the embarras'ed financial condition of the country we have been unable to equip the railroad sufficiently to transact the business that offered and to carry out all the contracts previously reported.

This failure, together with other obstacles, has very much embarras'ed

us in the operation of the railroad, but notwithstanding these embarrassments, we have succeeded not only in the preservation of the property but in its material and valuable improvement by the earnings of the road together with the money realized from our securities. The railroad is in successful operation its entire length, from Chattanooga, Tennessee, to Meridean, Mississippi, and its business is gradually increasing. It is now one of the best railroads in the South. We have submitted to the proposed purchasers of the road statements of the receipts, disbursements, and expenses, together with a balance of securities remaining in our hands, which have been carefully examined and accepted by them and their attornies, the substance of which statements are hereinafter set forth.

CERTIFICATES.

The total number of certificates of indebtedness which the re-
1903 ceivers were authorized to issue of $100 each, and due and payable in ten years, with interest at the rate of eight per cent. per annum payable semi-annually, as per order of the court, is twelve hundred, (1200.) These certificates were duly executed by the receivers to the full amount authorized by the order, and have been disposed of or remain on hand, as follows:

First. The receivers have sold and disposed of at various times, prior to and since the making of their last report in April, at ninety cents on the dollar, four hundred and nineteen certificates, as per detailed report herewith, marked "Exhibit A—419."

Second. The receivers have obtained loans where the certificates are held as collaterals to be sold at not less than ninety cents on the dollar, as follows:

John S. Wright, of Boston, Mass., holds fifty-five certificates to secure a cash loan of $50,000 with interest amounting to $2,677.16	55
The First National Bank of Chattanooga holds thirty certificates to secure a cash loan of $15,500	30
1904 The Alabama Central Railroad Company holds thirty certificates to secure a cash loan of $20,000.	30
Total number of certificates on loans	115
Total amount of cash against same	$88,177.76

Third. The receivers have contracts now in force with parties to furnish material and supplies for the road; and to secure these parties for such material and supplies yet to be delivered, as well as for those already delivered and not paid for, the receivers have deposited with them certificates, which, if taken on said contracts, are to be credited at ninety cents on the dollar, as follows:

Joseph Ourbacker, Chattanooga, Tenn	15
J. C. Hazelton, Etna coal-mines, Tenn	6
W. W. Totten & Bro., Nashville, Tenn	10
Rand & Winchester, Gadsden, Ala	8
R. B. Kyle, Gadsden, Ala	3
Vose, Dinsmore & Co., New York City	12
Chapman, Foster & Co., Chattanooga, Ten'	2
J. E. Whitnay & Co., Chattanooga, Ten'	2
L. F. Lawrence & Co., Boston, Mass	2
Wills Valley coal-mines, Ala	5
Total number so disposed of	65

1905 Fourth. The receivers have on deposit with their several agents for sale, five hundred and forty-six (546) certificates. In most cases our agents have advanced to us, from time to time, in anticipation of sales, such amounts as we were obliged to have for the necessities of the road.

The following are the names of the persons so holding certificates, and opposite their respective names are the number of certificates and the amounts so advanced to the receivers in anticipation of sales.

	Number of certificates.	Amount of cash advanced in anticipation of sales.
Francis B. Loomis, president 1st National Bank of New London, Conn	125	$45,426 62
William F. Drake, No. 66 Broadway, New York City	37	$17,050 00
John Demerit, Eliot National Bank, Boston, Massachusetts	96	$44,990 00
Albert A. Drake, No. 66 Broadway, New York City	124	$50,000 00
1906 Thomas Clark, No. 52 Broadway, New York City	45	$21,520 42
D. N. Stanton, No. 2 Exchange Court, New York City	34	$16,389 24
Lewis Rice & Son, Boston, Massachusetts	40	$16,751 50
New York State Loan & Trust Company, for account of William F. Drake	45	$18,231 60
Total certificates and cash	546	$230,359 38

Fifth. The receivers have on hand, and in their own possession, fifty-five (55) certificates.

RECAPITULATION.

1. Total number of certificates sold at 90 cents or more	419
2. Total number of certificates to secure loans	115
1907 3. Total number of certificates in hands of parties under contract to furnish materials and supplies for the road, and for such materials and supplies already furnished	65
4. Total number of certificates on deposit with agents of receivers and for sale	546
5. Total number of certificates in hands of receivers	55
Total number of certificates executed by receivers	1,200

The receivers report that under certain orders granted in this cause on the 22d day of May, 1873, and on the first day of September, 1873, they have delivered to John C. Stanton one hundred and forty-two certificates, (which number is included in the four hundred and nineteen sold,) issued by them under the order of the court, dated August 26th, 1872, in part payment for the tract of land of $24\frac{4}{15}$ acres in the city of Chattanooga, Tennessee, which the receivers were directed in said order to purchase of said Stanton for the necessary use of said railroad. That the amount of one hundred and fourteen thousand eight hundred and ninety-three $\frac{32}{100}$ dollars (114,893.32) will be due as the final bal-
1908 ance on said purchase on the first day of January, 1874, and on payment of said sum at said date the title to said land will be

made to said receivers or to whom the court may direct, a deed for the same having been executed and placed in the hands of Henry E. Waite, by consent of all parties, to be delivered on payment of said sum and interest from such date.

INTEREST.

Your receivers have to report with satisfaction that they have been able to maintain the credit of the court certificates by the prompt payment of the interest thereon accruing and becoming due on the first day of September, 1873, amounting in the aggregate to $18,920.00.

The receivers have encountered unlooked-for obstacles in the negotiation and sale of the certificates, by the exceedingly high and unprecedented rates of money during the past winter, and particularly since making our last report in April. As a rule, money could, for most of the time, be better invested by availing of the market-rates than by the purchase of certificates at 90, particularly as many of the first-class railroad bonds during the same period were daily sold in the
1909 Boston and New York markets at 80 and less, especially southern securities much less, and therefore the receivers felt that they have accomplished as much in the negotiation of their certificates as could under so many adverse circumstances be reasonably expected. The generous support from time to time of the persons having the certificates for sale, as the agents of the receivers, in advancing monies on account of sales, and in anticipation thereof, has materially aided the receivers during some of the most trying times in our management of the Alabama and Chattanooga Railroad. The loans thus made have enabled us to maintain the credit of the road when all other means had failed, and the receivers beg to suggest to their successors and to the court, that in the final settlement of these loans, the market-rates for money during the periods named may, so far as just and reasonable, be allowed.

The receivers further report that the further indebtedness of the railroad contracted during their receivership is, as near as can be calculated, about $223,837.60; of this amount there is due to employees about
$55,623.50. The balance of the indebtedness comprises amounts
1910 due for materials and supplies furnished from time to time to the road, part of which is due and part will become due from time to time; and the receivers believe that the assets now in their hands will be ample to provide for these liabilities. The following comprises a summary of the receipts and disbursements from the date of our appointment until the twentieth day of September, 1873.

RECEIPTS.

Proceeds from sale of 419 certificates	378,391 85
Borrowed on certificates	88,177 76
Advances on certificates in agent's hands	230,359 38
From notes payable in New York and Boston	10,849 95
From note payable in Chattanooga	17,631 18
From material and supplies sold in Chattanooga	38,312 14
From the operation of the road	295,185 52
From Lewis Rice & Son	104 44
	$1,059,012 22

DISBURSEMENTS.

On account of vouchers	782,785 43
On account of pay-rolls	204,072 40
On account of foreign roads	45,017 05
Interest-coupons paid at Chatta	1,000 00
Interest-coupons paid in New York	17,920 00
Chattanooga office, (balence)	7,214 95
Boston office, do	1,002 39
	1,059,012 22

It will be necessary to present a supplementary report of trans-
1911 acti'ns occur'ing between the time of the making of this report, and the date of assumption of the duties and responsibilities by the new receivers.

All of which is respectfully submitted.

LEWIS RICE,
WM. J. HARALSON,
Receivers.

EXHIBIT A.

Numbers of certificates sold and to whom sold.

Gillette & Crosby, Nos. 1 to 10, 231 to 234, 861 to 865	19
N. McKay, Nos. 225 to 227	3
Rice, Chilton & Jones, Nos. 11 to 20	10
J. P. Southworth, Nos. 739, 740	2
T. J. Carlile, Nos. 157, 158, 1022 to 1024	5
Gillette & Crosby, Nos. 240, 274 to 280, 661 to 663, 831 to 838	19
Cowan & Co., No. 171	1
J. Q. Smith, Nos. 737, 791 to 800	11
D. N. Stanton, Nos. 215 to 224, 671 to 700	40
Saml. F. Rice, Nos. 293, 130, 996 to 1000, 129, 995	9
E. H. Grandin, Nos. 184, 752 to 756	6
E. H. Kellogg, Nos. 839, 840	2
C. L. Fitch, Nos. 670, 787, 966	3
C. O. Whitney, Nos. 142 to 144, 155, 156, 175, 187, 962, 968, 777, to 786	19
H. E. Waite, Nos. 788, 1025 to 1029	6
1912 F. C. Stanton & Co., Nos. 941 to 953	13
J. S. Wright, Nos. 21 to 70, 901 to 906	56
F. M. Backus & Co., No. 774	1
J. P. Wilkinson, Nos. 186, 652	2
W. R. Carlile, Nos. 185, 669, 975, 1030, 1031	5
D. J. Duffy, No. 961	1
B. F. Gardner, No. 963	1
S. B. Moe, Nos. 964, 965, 969	3
H. Y. Hall, No. 967	1
A. H. Green, No. 970	1
H. Z. Chapman, Nos. 972, 973	2
H. C. Evans, No'. 651, 974	2
L. J. Standifer, No. 796	1
J. C. Stanton, Nos. 1016 to 1021	6
J. C. Stanton, No'. 126 to 141, 172 to 174, 154, 757 to 766, 1032 to 1141, 160, 751	142

Lewis Rice & Son, Nos. 1142 to 1166 25
F. J. Calhoun, Nos. 291 to 292..... 2

Total certificates sold and disposed of..... 419

Filed as of September 30th, 1873.

N. W. TRIMBLE, *Clerk.*

1913 *Application for appointment of receivers of the A. & C. R. R'd in place of Lewis Rice and William J. Haralson, resigned.*

To the circuit court of the United States for the district of Alabama, at Mobile, in the 5th judicial circuit of the United States, and to the honorable judges of and for said court and circuit:

Seth Adams, Francis B. Loomis, and John C. Stanton, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company, complainants and petitioners, respectfully state that heretofore they, as trustees as aforesaid, filed in said circuit court of the United States, at Mobile, their bill in equity against the Alabama and Chattanooga Railroad Company and others, praying, among other things, for the appointment of receivers, and for injunction, as
1914 more fully appears in their said bill; that under said bill William J. Haralson and Lewis Rice were duly appointed receivers in said cause, and duly qualified as such receivers, and have been acting as such receivers up to the present time; that the said receivers here now tendered their resignation as such receivers and their final report in the premises; that the interests of all parties concerned in said suit and in the property described in the said bill, require the immediate appointment of receivers in lieu of and as successors to said former receivers, who have resigned, as aforesaid; that the governor of Alabama has expressed his assent to the appointment of Abraham Mur-
1915 dock, who is the president of the Mobile and Ohio Railroad Company, and Andrew Foster Elliott, who is a partner in the firm of Duncan, Sherman & Co., in the city of New York, if any appointment of successors to said former receivers is made; that the said property mentioned in said bill, though improving in condition, still requires the constant protection, and supervision, and management of said circuit court, through receivers appointed by it; that said Murdock and Elliott are fit and competent persons to be appointed receivers in lieu of said former receivers; that said cause is still pending and undetermined in said circuit court at Mobile, and that no sound objection exists to their appointment.

1916 Wherefore your complainants and petitioners respectfully pray that without any delay, and without prejudice to the injunction or order heretofore issued and made in this cause, receivers be appointed as successors to and in lieu of said former receivers, and be clothed with the powers and charged with the duties which pertain to such appointees of said court. They also pray for all such other and further relief and orders in the premises as to equity belongs, or to your honors may seem meet.

JOHN C. STANTON,
FRANCIS B. LOOMIS, and
SETH ADAMS,
Trustees,

By GILLETTE, CROSBY & STIGER,
Solicitors for Complainants.

Filed as of Sept. 30, 1873.

N. W. TRIMBLE, *Clerk.*

1917 *Consent of counsel.*

Circuit court of the United States for the district of Alabama, at Mobile, in the fifth judicial circuit of the United States. In equity.

BETWEEN SETH ADAMS, FRANCIS B. LOOMIS, and John C. Stanton, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company, complainants,
and
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, trustees, &c., and others, defendants.
} On bill for receivers, &c.

The assignees in bankruptcy of the Alabama and Chattanooga
1918 Railroad are among the parties defendants to this suit, but have sold the railroad property mentioned in the pleadings to the State of Alabama; their sale to the State has been confirmed by the court of bankruptcy, at Montgomery, Alabama; hence the said assignees have no real interest in the said property or in this suit and are made defendants out of abundant caution. We do not represent them, but we know the facts above stated to be true. All the other parties to the suit who have the real interests in said property, we are authorized to represent; and being thus authorized, we not only assent to but recommend the appointment of A. Murdock and Andrew Foster
1919 Elliott as receivers in lieu of and as successors to the receivers first appointed in this cause. We also represent the gentlemen who are about to consummate the purchase of said property from said State, and in their behalf we also assent to and recommend the appointment of said Murdock and Elliott. We also know that the appointment of these gentlemen as such receivers is acceptable to the governor of Alabama, and we have his official written statement to that effect. All the parties having real interests in this property and suit agree to submit to the honorable Joseph P. Bradley, judge
1920 of the Supreme Court of the United States and ex-officio a judge of and for the fifth judicial circuit of the United States, the resignation of the receivers first appointed in this cause, and the appointment of their successors, and all other and further orders in the premises, to be decided or acted upon at Washington City, D. C., or at any other place where he (the honorable Joseph P. Bradley) may be.

Dated this twenty-ninth day of September, A. D. 1873.

SAML. F. RICE.
HIRAM B. CROSBY,
Of Gillette, Crosby and Stiger, 15 Nassau st., New York.

Filed as of September 30th, 1873.

N. W. TRIMBLE, *Clerk.*

1921 *Letter from Hon. C. Hays, M. C., to Hon. J. P Bradley.—In re appointment of Messrs. Murdock & Elliott as receivers of the A. & C. R. Rd.*

WASHINGTON, *September* 30, 1873.

Hon'ble J. P. BRADLEY:

I have been informed that in consequence of the resignation of the former receivers of the Alabama and Chattanooga Railroad property,

an application is pending before you for the appointment of A. Murdock, the president of the Mobile and Ohio Railroad Company, and Andrew Foster Elliott, a member of the firm of Duncan, Sherman and Company, as receivers in lieu of those who have resigned; and that the gentlemen who are about to consummate a purchase of said property from the State of Alabama desire the appointment of said Murdock and Elliott.

1922 I have long known Mr. Murdock personally and as an intelligent and successful railroad manager, and I feel confident his appointment will be of vast benefit to that property and to the public. From the established reputation of the firm of Duncan, Sherman and Company, I believe the appointment of a member of that firm to be wise and safe. I therefore recommend the appointment of the gentlemen above named.

Very respectfully,

CHARLES HAYS,
M. C., 4th District of Alabama.

Filed as of September 30th, 1873.

N. W. TRIMBLE, *Clerk.*

1923 *Order of Hon. J. P. Bradley appointing Abraham Murdock and Andrew Foster Elliott receivers of the A. & C. R. Rd.*

Circuit court of the United States for the district of Alabama, at Mobile, in the 5th judicial circuit of the United States. In equity.

BETWEEN SETH ADAMS, FRANCIS B. LOOMIS, and John C. Stanton, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company, complainants,

and

THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, trustees, &c., and others, defendants.

} On bill for receivers, etc.

1924 William J. Haralson and Lewis Rice, the receivers heretofore appointed in this cause, having tendered their resignation of their said office of receivers, as well as their final report; and the complainants in said cause, as complainants and petitioners, having presented their supplemental bill and petition setting forth such resignation and praying for the appointment of receivers in lieu of and as successors to said former receivers, and no objection to such appointment appearing; and the governor of Alabama having signified in writing his assent to the appointment of Abraham Murdock, who is president of the Mobile and Ohio Railroad Company, and Andrew Foster Elliott, who is
1925 partner in the firm of Duncan, Sherman and Company, if any appointment of such successors to said former receivers is made; and it appearing that said Murdock and Elliott are fit and proper persons to be appointed receivers and successors to said former receivers, and that the appointment of such successors should be made without any delay:

It is therefore ordered that the said Abraham Murdock and the said Andrew Foster Elliott be, and they are hereby, appointed receivers in this cause, as the successors to said former receivers, who have resigned

as aforesaid; and that the said Murdock and Elliott, as such re-
1926 ceivers and successors, be, and they are hereby, clothed with and shall have and enjoy all the rights, powers, and authorities which were conferred upon or vested in said former receivers by the order of the said circuit court, whereby they, the said former receivers, were appointed; and the said Murdock and Elliott, as such receivers and successors, are hereby charged with all the duties with which said former receivers were charged by the order appointing them; the said former order appointing the said former receivers "mutatis mutandis," is hereby made applicable to said Murdock and Elliott as receivers and successors as aforesaid, except that the oath and bond required of them may be made and approved before any judge of a circuit or the
1927 Supreme Court of the United States. This order is made without prejudice to the injunction heretofore issued in this cause, or to any order heretofore made in this cause, and is not intended to authorize the issue of any other or further certificates of indebtedness than those which were authorized by the said former order.

And the said William J. Haralson and Lewis Rice are to render a final account to the said circuit court at Mobile of their receipts and disbursements, with proper vouchers therefor; and all persons
1928 having any just and legal claims against said receivers for labor, material, or otherwise, for the use of said railroad, shall be entitled to present the same to the receivers hereby appointed, and to have the same adjusted and paid out of the funds that shall or may come to their hands.

September 30th, 1873.

JOS. P. BRADLEY,
Associate Justice of the Supreme Court of the United States.

Filed October 30th, 1873.

N. W. TRIMBLE, *Clerk.*

1929 *Bond of Receivers Murdock & Elliot.*

Know all men by these presents that we, Abraham Murdock, of Columbus, in the State of Mississippi, and Andrew Foster Elliot, of the city, county, and State of New York, as principals, and William Butler Duncan, of said city of New York, as security for the said Elliot, and jointly and severally with him alone, and Charles Walsh, of the city of Mobile, in the State of Alabama, as security for the said Murdock, and jointly and severally with him alone, are held and firmly bound in the penal sum of two hundred thousand dollars unto N. W. Trimble, esquire, of said city of Mobile, the clerk of the circuit court of the
1930 United States in the fifth judicial circuit for the district of Alabama, at Mobile, and his successor or successors in office, which sum we promise to pay on demand: Always provided, that these presents are upon condition that whereas Lewis Rice, of the city of Boston, in the State of Massachusetts, and William J. Haralson, of De Kalb County, in said State of Alabama, under and by virtue of an order made by the honorable Joseph B. Bradley, on the twenty-sixth day of August, 1872, in a cause pending in the circuit court of the United States for the district of Alabama, at Mobile, in the fifth judicial circuit, in which Seth Adams et als., trustees, &c., are complain-
1931 ants, and the Alabama and Chattanooga Railroad Company et als. are defendants, were duly appointed receivers in said cause, to take possession of, sue for, recover, and receive all the railroad and

other property and appurtenances of every kind and description whatsoever, formerly or now belonging to the Alabama and Chattanooga Railroad Company, which are embraced in or in any way reached or covered by the said first mortgage executed by said railroad company; said receivers being also authorized to put said railroad and other property in repair, and to complete any incompleted portions
1932 thereof, and to procure rolling-stock, machinery, and other necessary things for operating the same;

And whereas the said Lewis Rice and William J. Haralson have resigned their said office of receivers;

And whereas upon such resignation the said Abraham Murdock and Andrew Foster Elliott were duly appointed receivers in said cause, in lieu of and as successors to the said former receivers, by an order made on the 30th day of September, 1873, by the honorable Joseph P. Bradley, a judge of the Supreme Court of the United States, and ex officio a judge in and for the fifth judicial circuit of the United States;

And whereas by said last-mentioned order the said successors in said receivership are clothed with all the rights, powers, and au-
1933 thority which were vested in or conferred upon said former receivers by the order appointing them, and charged with all the duties with which said former receivers were charged by the order appointing them, as more fully appears by the said order of September 30th, 1873, which is here referred to as part hereof:

Now, then, if the said receivers, Abraham Murdock and Andrew Foster Elliot, shall faithfully discharge their duties as such receivers, as in said orders required, and shall duly account for all sums of money that they or either of them may raise or receive by virtue of their receivership, and shall obey and faithfully execute the said orders, and
1934 all other orders of the court in said cause in relation to their trust—it being distinctly understood, however, that each of said receivers shall be liable for the acts, defaults, and deficiencies of himself alone, and not for the acts, defaults, or deficiencies of the other—then, and in such case, these presents are to be void and of no effect; otherwise the same shall be and remain in full force and virtue in the law.

In witness whereof the said parties have hereunto set their hands and affixed their seals on the first day of October, A. D. 1873.

ABRM. MURDOCK. [SEAL.]
AND. FOSTER ELLIOT. [SEAL.]
W. BUTLER DUNCAN. [SEAL.]
CHAS. WALSH. [SEAL.]

1935 UNITED STATES OF AMERICA,
Southern District of New York, City of New York, ss:

On this eleventh day of October, 1873, before me personally appeared Abraham Murdock and Andrew Foster Elliot, to me known to be the persons described in and who executed the foregoing bond, and respectively acknowledged that they executed the same.

(S'g'd) L. B. WOODRUFF,
Circuit Judge 2nd Judicial Circuit of the United States.

UNITED STATES OF AMERICA,
Southern District of New York, City of New York, ss:

On this thirteenth day of October, 1873, before me personally
1936 appeared William Butler Duncan, to me known to be the person

described in and who executed the foregoing bond, and acknowledged that he executed the same.

L. B. WOODRUFF,
Circuit Judge of the Second Judicial Circuit of the United States.

UNITED STATES OF AMERICA,
Southern District of New York:

NEW YORK, *October 11th*, 1873.

Then personally appeared the within-named Abraham Murdock and Andrew Foster Elliot, the receivers within named, and made oath that they would faithfully perform the duties as such receivers pursu-
1937 ant to the orders of the honorable Joseph P. Bradley, associate justice of the United States Supreme Court and judge of the United States circuit court for the southern district of Alabama, made August 26th, 1872, and September 30th, 1873, in the suit within named.

ABM. MURDOCK AND
FOSTER ELLIOTT.

Before me.

L. B. WOODRUFF,
Circuit Judge of the Second Judicial Circuit of the United States.

UNITED STATES OF AMERICA,
Southern District of New York, City of New York, ss:

William Butler Duncan, being duly sworn, doth for himself say
1938 that he is a citizen and resident of the United States, and worth the sum of two hundred thousand dollars over and above his debts and liabilities.

W. BUTL. DUNCAN.

Sworn before me this 13th day of October, 1873.

L. B. WOODRUFF,
Circuit Judge of the 2nd Judicial Circuit of the United States.

In the circuit court of the United States for the southern district of Alabama, at Mobile, in the fifth judicial circuit of the United States. In equity.

1939 BETWEEN SETH ADAMS, FRANCIS B. Loomis, and John C. Stanton, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company, complainants,
and
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, trustees, &c., and others, defendants.
} On bill for receivers, &c.

UNITED STATES OF AMERICA, *ss:*

Egbert H. Grandin, of Mobile, Alabama, being duly sworn, doth depose and say that he is well acquainted with Charles Walsh, the surety on the bond of Abraham Murdock, one of the receivers in said
1940 cause appointed by the decretal order dated 30th September, 1873; that he is acquainted with the affairs of said Walsh, and

that he verily believes and has no doubt that said Walsh owns and possesses real and personal estate in the States of Alabama and New York, and elsewhere, over and above all debts and encumbrances, of the value of one hundred thousand dollars and upwards.

E. H. GRANDIN.

Sworn to and subscribed this 22nd October, 1873.
Before me.

JOSEPH P. BRADLEY,
Associate Justice Sup. Ct. U. S.

The foregoing bond is approved, October 22d, 1873.

JOSEPH BRADLEY,
Associate Justice Sup. Ct. U. S.

Filed in clerk's office this 27th day of October, A. D. 1873, at 9.30 a. m.

N. W. TRIMBLE, *Clerk.*

1941 *Motion for decree pro confesso.*

In the circuit court of the United States for the fifth judicial circuit and southern district of Alabama, at Mobile.

SETH ADAMS ET ALS.
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

Motion made in this case for an order to enter a decree pro confesso against the defendant Samuel B. Jones, as assignee of the Alabama and Chattanooga Railroad Company, the said defendant having failed to answer complainants' bill of complaint within the time pre-
1942 scribed by the rules in equity proceedings, the said defendant having been duly served with process demanding an answer to said bill of complaint, three months before the making of this motion.

JAMES Q. SMITH,
Solicitor for Complainants.

DECR. 22d, 1873.

Filed December 22nd, 1873.

N. W. TRIMBLE, *Clerk.*

Decree pro confesso vs. Saml. B. Jones.

SETH ADAMS ET ALS., TRUSTEES FOR THE holders of the first-mortgage bonds of the Alabama and Chattanooga Railroad Company, complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAIL-
1943 road Company, Lewis Rice, et als., trustees for the holders of the second-mortgage bonds of the Alabama and Chattanooga Railroad Company, defendants.

It appearing to the court that the defendant Samuel B. Jones, one of the assignees in bankruptcy of the Alabama and Chattanooga Railroad Company, in bankruptcy, has had service of subpœna served upon him three months before the date of this order, calling upon him, said defendant, as assignee, to plead, answer, or demur to said bill; and it appearing further that said defendant failed to appear and answer com-

plainants' bill of complaint within the time prescribed by the rules in equity proceedings:

1944 It is therefore ordered, on motion of complainants' solicitor, James Q. Smith, and it is now adjudged and decreed, that the bill of complaint filed in this cause be taken as confessed as against said defendant herein named, as to all the statements, allegations, and charges in said bill of complaint contained.

DECEMBER 22nd, 1873.

Filed December 22nd, A. D. 1873.

N. W. TRIMBLE,
Clerk U. S. Cir. Court So. Dist. Ala.

1945 *Suggestion of resignation of trustee.*

In the circuit court of the United States for the southern district of Alabama, at Mobile.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the first-mortgage bonds of the Alabama and Chattanooga Railroad, complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippett, and D. N. Stanton, trustees for the holders of the second-mortgage bonds of the Alabama and Chattanooga Railroad Company, et als., defendants.
} In equity—Mobile.

1946 In open court comes James Q. Smith, counsel for complainants, and suggests to the court the resignation and death of Seth Adams, one of the complainants, and the election of Daniel N. Stanton, a resident citizen of the State of New York, as trustee in place of said Adams, and moves the court to insert in the bill of complaint the name of the said Daniel N. Stanton, and to discontinue from the record the name of Seth Adams.

JAMES Q. SMITH,
Counsel for the Complainants.

Filed December 22nd, A. D. 1873.

N. W. TRIMBLE, *Clerk.*

1947 *Order substituting Stanton trustee for Seth Adams, resigned.*

In the circuit court of the United States for the southern district of Alabama, at Mobile.

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the first-mortgage bonds of the Alabama and Chattanooga Railroad Company, complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippett, and D. N. Stanton, trustees for the holders of the second-mortgage bonds, et als., defendants.
} In equity. Mobile.

It appearing to the court that Seth Adams, one of the complaining

trustees, has heretofore resigned his trust, and is now dead, and
1948 it appearing further that Daniel N. Stanton, a resident citizen of the State of New York, has been elected as trustee to fill the vacancy, it is therefore ordered, on motion of James Q. Smith, esquire, counsel for complainants, that the said Daniel N. Stanton be made a party complainant, as trustee, in the bill of complaint, and that the name of Seth Adams be discontinued from the record in this proceeding.

Filed December 22nd, A. D. 1873.

N. W. TRIMBLE,
Clerk, &c.

Petition of W. G. Jones, spec'l com'r.

Circuit court of the United States for the southern district of
1949 Alabama. In chancery.

SETH ADAMS ET ALS., COMPLAINANTS,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company and others, defendants.

To the honorable the judges of the circuit court of the United States for the southern district of Alabama.

The petition of William G. Jones respectfully showeth unto your honors that, by an order made by this honorable court in the above-entitled cause at the December term, 1872, of said court, your petitioner was appointed a special commissioner to inquire into and report
1950 upon the value of certain lands referred to in said order, as will appear by reference thereto, and in pursuance of said order your petitioner did enquire into and report upon the same to the last term of this court, as will appear by the records of said case; and at the last term of this court a further order was made by this court in said case, whereby your petitioner, as such special commissioner, to go in person to the city of Chattanooga, in the State of Tennessee, and there to make further enquiries as to the value of said lands, and as to other matters relating thereto mentioned in said last-mentioned order, and to report thereon to this court, as will appear by reference to said last-mentioned order; and in pursuance of said last-mentioned order your
1951 petitioner did go from the city of Mobile to the city of Chattanooga, and did there in person enquire into the matters so referred to him by examining a large number of witnesses, and he has made a report thereon to this court, as will appear by his report on file in this case. Your petitioner claims that he is reasonably entitled to the sum of seven hundred dollars for his labour and services as special commissioner under said two orders made by this court, and the further sum of thirty dollars for his travelling expenses in going to and returning from the city of Chattanooga, and your petitioner prays that the same may be allowed to him, and be ordered to be paid to him
1952 by the receivers appointed in this case, and that such other orders be made in the premises as may be just and equitable.

WM. G. JONES,
Special Commissioner.

DEC'R 22d, 1873.

Filed December 22nd, A. D. 1873.

N. W. TRIMBLE,
Clerk U. S. Cir. Court, So. District of Alabama.

1952¼ *Motion for decree pro confesso.*

SETH ADAMS ET ALS.
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company and others. } On bill, &c.

CHARLES B. WALLACE
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, et als. } Cross-bill.

Motion for decree pro confesso on publication.

Motion to the master in equity of this court for a decree pro confesso on proof of publication against Samuel B. Jones and William T. Wofford, defendants in the cross-bill of Charles B. Wallace.

J. T. MORGAN AND
BOYLES & OVERALL,
Solicitors for Complainant.

NOVEMBER 24th, 1873.

1952½ *Motion for decree pro confesso.*

SETH ADAMS ET ALS.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company and others. } On bill, &c.

CHARLES B. WALLACE
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als. } Cross-bill.

Motion for decree pro confesso.

Motion for decree pro confesso against John C. Stanton, Francis B. Loomis, Seth Adams, Lewis Rice, A. C. Lippitt, Daniel N. Stanton, Charles Walsh, John F. Bailey, John H. Gindrat, and the Alabama and Chattanooga Railroad Company, for want of answers.

J. T. MORGAN AND
BOYLES & OVERALL,
Solicitors for Complainant.

NOVEMBER 24, 1873.

1952¾ *Decree pro confesso.*

At rules, Monday, December 1st, 1873.

SETH ADAMS ET ALS.
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company and others. } On bill, &c.

CHARLES B. WALLACE
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als. } Cross-bill.

In this cause it appearing that the publication ordered requiring the

defendants, Samuel B. Jones and William T. Wofford, to plead, answer, or demur to the cross-bill of Charles B. Wallace had been duly made and the said defendants having failed to plead, demur, or answer to said cross-bill, it is therefore, upon motion of complainants' solicitors, ordered that the cross-bill filed in this cause be taken as confessed against the said defendants as to all the statements, allegations, and charges in said cross-bill contained.

N. W. TRIMBLE,
Master, &c.

1952½ At rules, Monday, December 1, 1873.

SETH ADAMS ET ALS.
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company and others. } On bill, &c.

CHARLES B. WALLACE
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als. } Cross-bill.

In this cause it appearing that D. W. Gillette, esq're, has entered appearance for the defendants, The Alabama and Chattanooga Railroad Company, John C. Stanton, Francis B. Loomis, Seth Adams, Lewis Rice, Andrew C. Lippitt, and Daniel N. Stanton, and that process has been issued and served on the defendants, John F. Bailey and
1952⅚ John H. Gindrat, requiring them to plead, demur, or answer to the cross-bill of Charles B. Wallace; and the said defendants having failed to plead, demur, or answer to said cross-bill, it is therefore, upon motion of complainants' solicitors, ordered that the cross-bill filed in this cause be taken as confessed against the said defendants as to all the statements, allegations, and charges in said cross-bill contained.

(Sgd.) N. W. TRIMBLE,
Master, &c.

1953 *Motion to allow replication to answer of Chas. B. Wallace.*

FRANCIS B. LOOMIS, JOHN C. STANTON, Daniel N. Stanton, et al., complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et al., defendants.

This day came James Q. Smith, attorney for the complainants, and in behalf of the complainants moves the court for leave to file a replication to the answer of Charles B. Wallace, heretofore filed by leave of the court, the said Wallace not being made a defendant to complainants' bill, but has since the filing of complainants' bill, by leave of the court, at his own request, become party defendant.

JAMES Q. SMITH,
Sol. for Complainants.

Filed December 23d, 1873.

N. W. TRIMBLE,
Clerk.

Order on motion to permit compl'ts to file replication to answer of Charles B. Wallace.

FRANCIS B. LOOMIS, JOHN C. STANTON, AND Daniel N. Stanton, et al., trustees, complainants,
vs.
THE ALABAMA & CHAT. RAILROAD COMPANY, Lewis Rice, A. C. Lippett, D. N. Stanton, et al., defendants.

1954 It appearing to the court that heretofore on the application of Charles B. Wallace, who was not made a party defendant to the complainants' bill of complaint, but, by leave of the court, was permitted to be made a defendant, and to file an answer to the complainants' bill in behalf of himself and others, holders of the bonds known as the second-mortgage bonds of the Alabama and Chattanooga Railroad Company; and it appearing further that said Charles B. Wallace has filed an answer to complainants' bill of complaint, to which complainants have not filed a replication, it is now ordered, on motion of complainants' solicitor, James Q. Smith, on behalf of complainants, that they have leave to file a replication to said answer of Chas. B. Wallace.

DECEMBER 23D, 1873.

1955 *Replication to answer of Charles B. Wallace.*

FRANCIS B. LOOMIS, JOHN C. STANTON, AND Daniel N. Stanton, as trustees for the holders of the first-mortgage bonds of the Alabama and Chattanooga Railroad Company, complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippett, and D. N. Stanton, trustees of the Alabama and Chattanooga Railroad Company, et als., defendants.

In the circuit court of the United States for the southern district of Alabama, at Mobile.

To the honorable the judges of the circuit court of the United States for the southern district of Alabama, at Mobile, exercising chancery jurisdiction in said district, at Mobile, in the State of Alabama.

The replication of Francis B. Loomis, John C. Stanton, and
1956 Daniel N. Stanton, as trustees for the holders of the first-mortgage bonds of the Alabama and Chattanooga Railroad Company, filed by order of court, heretofore had and received:

Complainants, for replication to the answer of Charles B. Wallace, hereto' filed by leave of the court, *denies* all the allegations, statements, and charges made by the said Wallace in his said answer to complainants' bill of complaint, except so far as such allegations, statements, and charges are stated to be true in complainants' bill of complaint and the amendments thereto. And complainants now restate and aver that all the allegations, statements, and charges made in complainants' original and amended bill are true.

(S'g'd) JAMES Q. SMITH,
Solicitor for Complainants.

Filed December 23rd, A. D. 1873.

N. W. TRIMBLE, *Clerk.*

1957 *Disclaimer of Charles Walsh.*

In the circuit court of the United States for the fifth judicial circuit *circuit* and southern district of Alabama. In chancery.

SETH ADAMS & ALS.
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company.
} Disclaimer of deft. C. Walsh.

Cross-bill of Charles B. Wallace.

The said defendant, Charles Walsh, comes into court, in answer to allegations of said cross-bill, and shows that he is an utter stranger to all the matters alleged in the same, and can form no belief in regard to the same. Wherefore he prays to be hence dismissed with his costs, &c.

E. H. GRANDIN,
Sol. of Deft. C. Walsh.

Filed December 23d, 1873.

N. W. TRIMBLE, *Clerk.*

1958 *Motion to set aside decree pro confesso on cross-bill of Chas. B. Wallace.*

In the circuit court of the United States for the southern district of Alabama. In equity.

FRANCIS B. LOOMIS, JOHN C. STANTON, AND Daniel N. Stanton, as trustees, et als., defendants in cross-bill of Charles B. Wallace and others,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, et als.

This day comes James Q. Smith, solicitor for complainants, and moves the court to set aside the decree pro confesso heretofore taken before the clerk of this court, as a master in vacation at rules, on the ground—

First. That complainants in the original bill have not been brought into court by publication, or by subpœna, or by any appearance
1959 in court, by themselves or their counsel, which waives publication or subpœna.

Second. That Mr. Gillette, who purports to appear for complainants, as their solicitor, thereby waiving notice, was not their solicitor in this case to enter appearance for them, and had no authority from complainants or any of them to enter such appearance to said cross-bill, and they are not bound by such unauthorized appearance for them.

Third. Because James Q. Smith, sole solicitor for complainants, was alone authorized to make any appearance for complainants in this suit, and as solicitor for complainants he had no notice of the appearance by Mr. Gillette and his waiver of the appearance of complainants to said cross-bill of Charles B. Wallace.

JAMES Q. SMITH,
Sol. for Complt.s

23D DEC., 1873.

Filed December 23d, 1873.

N. W. TRIMBLE, *Clerk.*

1960 *Order on additional report of W. G. Jones, special master.*

In the circuit court of the United States, at Mobile, in the 5th judicial circuit of the United States.

SETH ADAMS ET AL., TRUSTEES, COMPLAINANTS, *agt.* THE ALABAMA AND CHATTANOOGA RAILROAD Company et al., defendants.

The additional report of William G. Jones, special master, with the accompanying testimony made under the order signed by Judge Bradley on the 22nd May, 1873, in this cause is submitted upon an application for the confirmation of said report, as well as of the report theretofore made by the same special master. It appears that all the parties having any substantial interest in this applica ion have had notice of it either in person or by their solicitor, and have made no objection to the same. The State of Alabama, though not a party to this suit, has
1961 an interest in it, and has not been notified of this application; it ought to have the opportunity of said reports, upon consideration of said reports and testimony and accompanying documents.

It is ordered, adjudged, and decreed that in case no objection shall be filed by the governor of Alabama to the confirmation of said reports within six days after a copy of this order shall have been served on or delivered to said governor, each of said reports shall from the expiration of said six days be and stand confirmed, and that the receivers in this cause, whoever they may be, upon the removal of the liens upon said twenty-five acres of land mentioned in said reports and of the difficulties as to the title to the said twenty-five acres, and upon obtaining a good title to the said twenty-five acres or other less quantity described in said reports, and the exhibits accompanying the same, shall pay to said John C. Stanton, or to such person or persons as he may di-
1962 rect, ten thousand dollars per acre for said twenty-five acres or other less quantity to which the receivers get title. But in case such objection is filed by said governor within said period of six days, this order then becomes inoperative except as a mere permission to file such objection.

Sept. 1st, 1873.

W. B. WOODS, *Judge.*

To the clerk of the U. S. circuit court for the southern district of Alabama:

You will enter the foregoing order upon the order-book.

Sept. 1st, 1873.

W. B. WOODS, *Judge.*

Filed December 23d, 1873.

N. W. TRIMBLE, *Clerk.*

Acceptance of service.

DRY CREEK, ALA., *Sept.* 16, 1873.

Copy of the within paper handed me this day, which is accepted as legal service of same, not waiving, however, jurisdiction of the court, as to the State of Alabama.

DAVID P. LEWIS,
Governor of Alabama.

Decree pro confesso against Chas. Walsh set aside.

CHARLES B. WALLACE ET ALS.
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als. } Cross-bill. In equity.

The decree pro confesso heretofore entered against Charles
1963 Walsh is by consent set aside, and the said Walsh, by his attorney, comes and files a disclaimer.

December 23, 1873.

* * * * * * *

Order allowing fee to W. G. Jones, special commissioner.

SETH ADAMS & ALS., COMPLTS.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Co. et als., defendants. } In chancery.

On the petition of William G. Jones filed in this case, and on his motion in open court and no objection being made thereto, it is ordered by the court that the sum of seven hundred and thirty dollars be allowed to the said William G. Jones for his services and travelling expenses as special commissioner under orders heretofore made in this case, and it is further ordered that the receivers appointed in this case pay to the said William G. Jones the said sum of seven hundred and thirty dollars out of any monies or funds in their hands as receivers.

December 24, 1873.

W. B. WOODS, *Judge.*

1964 *Report of special master N. W. Trimble on order May* 21, '73.

Circuit court of the United States for the fifth judicial circuit and southern district of Alabama, at Mobile.

SETH ADAMS, FRANCIS B. LOOMIS, AND others, trustees, &c.,
vs.
THE ALABAMA AND CHATTANOOGA RAILroad Company and others. } In equity.

Report of special master, &c.

To the honorable the circuit court of the United States for the fifth judicial circuit and southern district of Alabama:

In pursuance of the order of this honorable court, made in the above-entitled cause on the 21st day of May, A. D. 1873, appointing me, the undersigned N. W. Trimble, special master for the purposes in
1965 said order specified, I report thereon as follows:

1st. That at the time agreed upon by William J. Haralson, one of the receivers of said railroad, and the undersigned, he visited Chattanooga, Tennessee, at which place is situated the principal office of said railroad company, and upon an examination of the books, papers, pay-rolls, and vouchers of said receivers of the said railroad company, found the expenses of said receivers as follows: For the month of October, 1872, the sum of seventy-seven thousand one hundred and sixty-five $\frac{95}{100}$ ($77,165.95) dollars; for the month November, ninety thousand three hundred and nineteen $\frac{83}{100}$ ($90.319.83) dollars; for the month of
1966 December, sixty-one thousand six hundred and ninety-six $\frac{90}{100}$

($61,696.90) dollars; for the month of January, A. D. 1873, one hundred and twenty-seven thousand and thirty-two $\frac{75}{100}$ ($127,032.57) dollars; for the month of February, 1873, the sum of sixty thousand four hundred and fifty-nine $\frac{56}{100}$ ($60,459.56) dollars; for the month of March, 1873, the sum of eighty-one thousand three hundred and forty-three $\frac{75}{100}$ ($81,343.75) dollars; for the month of April, 1873, the sum of one hundred and seven thousand and ninety-eight $\frac{79}{100}$ dollars, ($107,098.79;) for the month of May, 1873, thirty-one thousand one hundred and forty-six $\frac{98}{100}$ $31,146.98) dollars; for the month of June, 1873, the sum of four-
1967 teen thousand three hundred and eighty-seven $\frac{26}{100}$ ($14,387 $\frac{26}{100}$) dollars; for the month of July, 1873, thirteen thousand and sixty-one $\frac{19}{100}$ ($13,061 $\frac{19}{100}$) dollars; and for the month of August, 1873, the sum of twelve thousand nine hundred and six $\frac{34}{100}$ ($12,906.34,) making total amount of expenses, from the time of said receivers taking charge of said railroad, or from October 1st, A. D. 1872. to 31st August, A. D. 1873, the sum of six hundred and seventy-six thousand six hundred and nineteen $\frac{12}{100}$ ($676,619.12) dollars. Exhibit A, hereto attached and verified by the affidavit of Will R. Carlisle, esquire, auditor and treasurer of said railroad company, under said receivers, is made a
1968 part of this report and contains a tabular statement of said expenses, and whether the same are evidenced by vouchers or by the pay-rolls of said railroad company.

2nd. Said master reports that from an examination of the books, papers, &c., of said office at Chattanooga, Tennessee, and by the assistance of the auditor of said company under the receivers Rice and Haralson, he found the earnings of said railroad to be as follows:

For the month of October, A. D. 1872, the sum of eighteen thousand four hundred and thirty-three $\frac{43}{100}$ ($18,433.43) dollars; for the month of November, 1872, the sum of twenty four thousand and twenty-four
1969 $\frac{36}{100}$ ($24,024.36) dollars; for the month of December, the sum of twenty-three thousand nine hundred and eighty-four $\frac{53}{100}$ ($23,984.53) dollars; for the month of January, A. D. 1873, the sum of thirty-three thousand one hundred and fifty-seven $\frac{90}{100}$ ($33,157.90) dollars; for the month of February, 1873, the sum of twenty-two thousand two hundred and seventy-nine $\frac{79}{100}$ ($22,279.79) dollars; for the month of March, 1873, twenty-two thousand three hundred and eight $\frac{61}{100}$ ($22,308.61) dollars; for the month of April, 1873, the sum of twenty thousand and seventy-seven $\frac{56}{100}$ ($20,077.56) dollars; for the month of May, 1873, the sum of seventeen thousand three hundred and seventy-eight $\frac{74}{100}$
1970 ($17,378.74) dollars; for the month of June, 1873, the sum of ten thousand one hundred and thirty-six dollars $\frac{85}{100}$ ($10,136.85) dollars; for the month of July, 1873, the sum of twelve thousand two hundred and eighty-one $\frac{35}{100}$ ($12,281.35) dollars; and for the month of August, 1873, the sum of fourteen thousand two hundred and seven $\frac{50}{100}$ ($14,207.50) dollars; making the total earnings of said railroad under said receivers from the 1st of October, A. D. 1872, to the 31st of August, 1873, the sum of two hundred and eighteen thousand two hundred and seventy $\frac{62}{100}$ dollars, ($218,270.62.)

Exhibit B, hereto attached and made a part of this report, which is verified by the affidavit of the auditor and treasurer of said
1971 receivers, or of said railroad company under said receivers, contains a tabular statement of the earnings of said railroad for each month, and the earnings from passengers, freight, telegraph, express-toll, and the Alabama Central Railroad Company, respectively, for each month mentioned above.

3rd. Said special master reports that he failed to meet either of the receivers, Haralson or Rice, at Chattanooga, and is unable to make a full report as to the certificates issued by said receivers, as he was unauthorized by the order of this honorable court to proceed to New York or to the Boston office of said company or said receivers, where
1972 he was informed a record was kept of the same by Mr. Lewis E. Rice, one of said receivers.

As to the certificates of which there is any record or which have passed through the office of said railroad at Chattanooga, he reports as follows:

Fifty-four certificates have been sold at 90 cents on the dollar, and one for one thousand dollars; each one being for one thousand dollars.

Eighty certificates of one thousand dollars each have been used as collateral in raising money and in payment of debts due from said railroad.

Exhibit C, hereto attached, and verified by the affidavit of the auditor and treasurer of said railroad, is made a part of this report, and contains a detailed statement of the number of each certificate sold
1973 or disposed of, for how much and to whom sold, and with whom the same were deposited as collateral, and the number of each certificate so deposited.

One hundred and thirty-five certificates of one thousand dollars each have been disposed of by the office of said railroad at Chattanooga.

The master, although he has applied for the same, has received no statement from the receivers of the certificates disposed of elsewhere.

All of which is respectfully submitted.

N. W. TRIMBLE,
Special Master, &c.

NOTE.—The master states that the reason Judge Haralson, one of the receivers, did not meet him in Chattanooga was that he was holding court at Huntsville, Alabama.

N. W. TRIMBLE,
Special Master.

Filed December 26, A. D. 1873.

N. W. TRIMBLE, *Clerk.*

1974 EXHIBIT A.

Statement of expenses by receivers of the Alabama and Chattanooga R. R'd, August 31st, 1873.

Date.	Vouchers.	Pay-rolls.	Total.
1872.			
October	41,941 01	35,224 94	77,165 95
November	49,125 16	41,194 67	90,319 83
December	34,845 65	26,851 25	61,696 90
1873.			
January	88,831 91	38,200 66	127,032 57
February	29,690 33	30,769 23	60,459 56
March	45,554 92	35,788 83	81,343 75
April	79,188 50	27,910 29	107,098 79
May	14,319 13	16,827 85	31,146 98
June	6,944 15	7,443 11	14,387 26
July	6,473 84	6,587 35	13,061 19
August	6,608 72	6,297 62	12,906 34
Total	403,523 32	273,095 80	676,619 12

1975 CHATTANOOGA, *November* 19, 1873.

Personally appeared before me, N. W. Trimble, special master, &c., W. R. Carlile, auditor, &c., who, being duly sworn, deposes and says the above is a true and correct statement of expenses by receivers of the Alabama and Chattanooga Railroad, as appears from the books of the auditor and treasurer, in the office at Chattanooga, Tennessee, for the periods therein named.

WILL. R. CARLILE.

Subscribed and sworn to before me this 19th November, 1873.

N. W. TRIMBLE,
Special Master, &c.

Filed December 26, 1873.

N. W. TRIMBLE, *Clerk.*

1976 EXHIBIT B.

Receivers' statement of transportation-earnings of Alabama and Chattanooga Railroad from October 1st, 1872, to August 31st, 1873, inclusive.

Month of—	Passenger.	Freight.	Telegraph.	Express tolls.	Ala. Central R. Rd.	Total.
1872.						
October	3,987 87	12,039 22	109 26	127 70	2,169 38	18,433 43
November	7,224 20	14,909 99	186 38	200 09	1,503 70	24,024 36
December	6,528 07	16,629 89	188 49	270 50	367 58	23,984 53
1873.						
January	11,474 94	19,643 60	270 87	185 37	1,583 12	33,157 90
February	5,884 69	15,158 21	180 08	213 70	843 10	22,279 79
March	4,690 50	15,552 12	144 44	288 80	1,632 75	22,308 61
April	3,990 63	14,482 44	111 95	230 01	1,262 53	20,077 56
May	2,843 00	13,045 06	130 78	105 43	1,254 47	17,378 74
June	1,815 65	7,370 61	82 14	32 17	836 28	10,136 85
July	2,257 35	9,132 29	102 60	85 73	703 38	12,281 35
August	2,711 09	10,823 40	69 89	70 34	532 78	14,207 50
Total	53,407 99	148,786 83	1,576 89	1,809 84	12,689 07	218,270 62

Remarks.

1977 Personally appeared before me, N. W. Trimble, special master, &c., W. R. Carlile, auditor, &c., who, being duly sworn, deposes and says this Exhibit B is a true and correct statement of transportation earnings of Alabama and Chattanooga Railroad under receivers for the periods therein named, as the same appear from the records and books of the auditor and treasurer in the office at Chattanooga, Tennessee.

WILL. R. CARLILE.

Subscribed and sworn to before me this 19th November, A. D. 1873. Respectfully submitted.

N. W. TRIMBLE,
Special Master, &c.

Filed December 26, 1873.

N. W. TRIMBLE, *Clerk.*

1978

EXHIBIT C.

Statement of receivers' certificates placed in the hands of the auditor and treasurer of Alabama and Chattanooga Railroad, showing numbers and disposition of same.

No. of certificate.	To whom.	Remarks.
142	C. O. Whitney	Sold at 900 each.
143	do.	" " "
144	do.	" " "
145	Jos. Onerbacker	145 to 153, and 655 to 660 inc. 15 certificates, advanced and held as collateral for work and material furnished and to be furnished by Jos. Onerbacker.
146	do.	
147	do.	
148	do.	
149	do.	
150	do.	
151	do.	
152	do.	
153	do.	
154	J. J. Bryan	Holds as collateral.
155	C. O. Whitney	Sold $900.
156	do.	do.
157	T. J. Carlile	do.
158	do.	do.
159	J. C. Hacelton	Holds as collatteral ⅝ coal furnished.
160	Harry Wilcox	Holds as collateral.
1979 161	W. W. Totten & Bro.	161 to 170 inc., 10 certificates held by W. W. Totten & Bro., as collateral for supplies furnished, $1,5, 119.06 with interest.
162	do.	
163	do.	
164	do.	
165	do.	
166	do.	
167	do.	
168	do.	
169	do.	
170	do.	
171	Corran & Co	Sold for $1,000—$
175	C. O. Whitney	" " $9,00$
176	Rand & Winchester	Held by Rand & Winchester as collatteral to secure payment for lumber furnished. (8 certificates.)
177	do.	
178	do.	
179	do	
180	do.	
181	do.	
182	do.	
183	do.	
184	E. H. Grandin	Sold for $1,000 $
185	W. R. Carlile	" " 900
186	J. P. Wilkinson	" " 900$
187	Cr O. Whitney	" " 900$
188	R. B. Kyle	Held by R. B. Kyle as collateral to secure payment for lumber furnished for section-houses, &c.
189	do.	
190	do.	

No. of certificate.		To whom.	Remarks.
1980	191	First Nat. B'k Chattanooga	(30 certificates.) 191 to 200, 621 to 630, & 741 to 750 deposited as collateral to secure payment of $15,500.00 cash advanced by First National Bank, Chattanooga, on treasurer notes, &c., to pay in 30 days and by direction of general manager.
	192	do.	
	193	do.	
	194	do.	
	195	do.	
	196	do.	
	197	do.	
	198	do.	
	199	do.	
	200	do.	
	621	do.	
	622	do.	
	623	do.	
	624	do.	
	625	do.	
	626	do.	
	627	do.	
	628	do.	
	629	do.	
	630	do.	
	651	H. E. Evans	Sold for $900.
	652	J. P. Wilkinson	"
	653	Chapman, Foster & Co	Held as collateral to secure $970.55 for supplies furnished.
	654	do	
	655	Jos. Onerbacker	Held by J. Onerbacker as collateral See 145 to 153, inc.
	656	do.	
	657	do.	
	658	do.	
	659	do.	
	660	do.	
1981	669	W. R. Carlile	Sold for $900.
	670	C. L. Fitch	"
	741	First Nat'l Bank Chatta.	As collateral. See. 191 to 200 & 621 to 630.
	742	do.	
	743	do.	
	744	do.	
	745	do.	
	746	do.	
	747	do.	
	748	do.	
	749	do.	
	750	do.	
	767	J. E. Whitney & Co	Held as collateral to secure payment for flour and supplies.
	768	do.	
	769	L. F. Lawrence & Co	Held as collateral to secure payment for supplies furnished.
	770	do.	
	771	J. C. Haselton	Held as collateral to secure payment for coal furnished.
	772	do.	
	773	db.	
	774	F. N. Backus & Co.	Sold for $900.
	775	J. C. Haselton	As collateral to secure payment for coal delivered.
	776	do.	
	777	C. O. Whitney	Sold for $900.
	778	do.	"
	779	do.	"
	780	do.	"
	781	do.	"
	782	do.	"
	783	do.	"
1982	784	E. O. Whitney	Sold for $900.
	785	do.	"
	786	do.	"

No. of certificate.	To whom.	Remarks.
787	C. L. Fitch	Sold for $900.
788	H. E. Waite	"
960	D. J. Duffy	"
962	C. O. Whitney	Sold for $900.
963	B. F. Gardner	"
964	S. B. Moe	"
965	do	"
966	C. L. Fitch	"
967	H. Y. Hull	"
968	C. O. Whitney	"
969	S. B. Moe	"
970	A. H. Green	"
972	H. Z. Chapman	"
973	do.	"
974	H. C. Evans	"
975	W. R. Carlile	"
976	L. J. Standifer	"
1022	T. J. Carlile	"
1023	do	"
1024	do	"
1025	H. E. Waite	"
1026	do	"
1027	do	"
1028	do	"
1029	do	"
1030	W. R. Carlile	"
1031	do	"

1983

RECAPITULATION.

55 certificates sold for $49,700.00.
80 " used as collateral.

135 total accounted for, (one hundred and thirty-five receivers' certificates accounted for.)

CHATTANOOGA, *Nov.* 19, 1873.

Personally appeared before me, N. W. Trimble, special master, &c., W. R. Carlile, auditor, &c., who, being by me first duly sworn, deposes and says, that the foregoing "Exhibit C" contains a true and correct statement of receivers' certificates placed in the hands of the auditor and treasurer of Alabama and Chattanooga Railroad, showing numbers and disposition of same.

WILL R. CARLILE.

Subscribed & sworn to this 19th Novr., 1873.

N. W. TRIMBLE,
Special Master, &c.

Filed December 26, 1873.

N. W. TRIMBLE, *Clerk.*

1984 *Petition of N. W. Trimble, special master.*

Circuit court of the United States for the southern district of Alabama.
In equity.

SETH ADAMS ET ALS., COMPLAINANTS,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company and others, defendants. } No. 40.

To the honorable the judges of the circuit court of the United States for the southern district of Alabama:

The petition of N. W. Trimble respectfully showeth unto your honor that, by an order made by this honorable court, in the above-entitled cause, at the April term, A. D. 1873, of said court, your petitioner
1985 was appointed a special master to inquire into and report upon certain matters mentioned in said order of May 21st, 1873, as will appear by reference thereto; and, in compliance with said order, your petitioner did inquire into and report upon the same, as will appear by the records of said court or the files thereof. That your petitioner, in compliance with said order, did go to the city of Chattanooga, in the State of Tennessee, and was engaged nearly two weeks in perfecting the requirements of said order. That his actual expenses in going and returning and remaining at Chattanooga were some eighty-odd dollars, which were paid out of his own private means.

Your petitioner respectfully asks that he be allowed the sum
1986 of five hundred dollars for his services in executing said order and making said report, and the further sum of eighty dollars so expended by him as aforesaid; and that said sums be ordered to be paid to him by the receivers appointed in this cause; and that such orders may be made in the premises as may be just and equitable.

N. W. TRIMBLE,
Special Master, &c.

DECEMBER 26, 1873.

Filed December 26th, A. D. 1873.

N. W. TRIMBLE, *Clerk.*

Order of court on petition of N. W. Trimble.

In the circuit court of the United States for the fifth judicial
1987 circuit and southern district of Alabama. In chancery.

SETH ADAMS ET ALS., COMPLAINANTS,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als., defendants.

On the petition of N. W. Trimble, filed in this cause, and on his motion in open court, and no objection being made thereto, it is ordered by the court that the sum of five hundred and eighty dollars be allowed said N. W. Trimble for his services and actual expenses in travelling, &c., as special master under an order heretofore made in this cause; and it is further ordered that the receivers appointed in this case pay to the said N. W. Trimble the said sum of five hundred and eighty dollars out of any moneys or funds in their hands as receivers.

W. B. WOODS, *Judge.*

Filed & entered December 26, 1873.

N. W. TRIMBLE, *Clerk.*

1988 *Exceptions to the report of Haralson & Rice, receivers.—Filed 30th Sep.*, 1873.

In the district court of the United States for the southern district of Alabama, at Mobile. In equity.

FRANCIS B. LOOMIS, JOHN C. STANTON, AND D. N. Stanton, as trustees, et al., complainants,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippett, et als., defendants.

The complainants object and except to so much of the report of Lewis Rice and W. J. Haralson, receivers of the Alabama and Chattanooga Railroad, as hereinafter stated, first moving that said report may be stricken from the files in this case, because the same is not
1989 sworn to by said receivers or either of them.

Complainants except to so much of said report marked "Filed 30th September, 1873," as states said receivers deposited with Jno. S. Wright 55 certificates; with the First National Bank of Chattanooga, 30 certificates; and with the Alabama Central Railroad Company, 30 certificates; in all, 115 certificates, "as collateral security," because there is no authority given said receivers to make such deposit of certificates as collateral security.

Complainants except to so much of said report as states that 65 certificates are deposited with various persons for work and materials
1990 to be furnished them, because the nature and quality of the work and materials is not stated, and that the work and materials is for the benefit of the railroad, and because the name or names of the person or persons is not fully set forth, with the consideration, and because said receivers had no authority of this court to make such deposit for work and materials of any description whatever.

The complainants except to so much of said report wherein it states 546 certificates are deposited with various parties, against which they as receivers drew various amounts; that is to say, the sum of $230,359.38, because there is no authority of this court to make such deposit,
1991 because it is not stated what special agreement was entered into with such parties by the said receivers, and because it is not stated how said parties now propose to hold 546 certificates for 23,359.38 dollars.

The complainants except to so much of said report as gives the indebtedness of said receivers to be $223,837.60, because the name of each creditor is not stated, the amount due each creditor is not stated, and because the nature and consideration of such indebtedness is not fully disclosed.

Complainants except to so much of said report as states $10,849.95 are due on notes in New York and Boston, the nature of such
1992 indebtedness and consideration not being given.

Complainants except to so much of said report as states the receipt of $38,312.14 by said receivers from materials and supplies sold at Chattanooga, and does not inform the court what the nature of the materials and supplies sold, to whom sold, the value of each article and thing sold, and because said receivers had no authority to make sale of any materials or supplies.

Complainants except to said report wherein it is stated Lewis Rice

& Son paid $10,442, the nature and consideration of such indebtedness not been stated.

JAMES Q. SMITH,
Complts.' Solicitor.

Filed December 30, 1873.

N. W. TRIMBLE, *Clerk.*

1993, 1994 *Report of January 15th, 1874.*

To the honorable the judges of the circuit court of the United States presiding for the southern district at Mobile, Alabama, for the district of Alabama:

The undersigned, the receivers of the Alabama and Chattanooga Railroad, respectfully beg leave to submit that their successors, Abraham Murdock and Andrew Foster Elliott, appointed under your honor's order, dated September 30th, 1873, relieved us of our duties and responsibilities on November 1st, 1873, at which time an inventory of all the property of the said railroad in our possession was taken, which amounted, in the aggregate, to the value of nine million six hundred and eighty-four thousand six hundred and eighty-seven $\frac{69}{100}$ dollars, ($9,684,687.69.) The property, when it first came into the receivers' , was valued at eight million three hundred and twenty-five thousand and eighty dollars, ($8,325,080.00,) showing an increase in value of one million three hundred and fifty-nine thousand six hundred and seven $\frac{69}{100}$ dollars, ($1,359,607.69.) In both cases the valuation was made by disinterested parties of ability and experience. This increased valuation accrues
1995 from improvements and repairs made on the road-bed, bridges, trestles, rolling-stock, and the property generally. When the property was transferred to our successors in accordance with your honor's order the railroad was in successful operation its entire length, from Chattanooga, Tennessee, to Meridian, Miss. In addition to the ordinary expenditures of the railroad your receivers found it necessary to re-imburse the United States Government for the balance due and remaining unpaid on rolling-stock and railway material purchased by the Wills Valley Railroad, in 1865. The amount due on the first day of January, 1873, was $21,143.59, which amount was retained by the Government out of the monthly earnings for carrying the mails or transporting Government supplies or troops. The last payment was made in November, 1873, as per account rendered by the Quarter' General of the United States, a copy of which is attached to this report, marked "Exhibit A." As this account was closed monthly by the officers of the Government, the amount of $21,143.59 should be added to the earnings to show the total receipts of the railroad while under our controul.

Annexed hereto we present a supplementary statement of the receipts,
1996 disbursements, and expenses from the time of our last report until the time we transferred the jurisdiction of the property to our successors, and have filed in your honor's court all vouchers for such expenditures and expenses. We therefore pray your honors that these accounts and vouchers may be examined and approved and we and our securities relieved from further responsibility, and that we may be allowed such compensation for our services and responsibility as such receivers as you may deem reasonable and just.

All of which is respectfully submitted.

LEWIS RICE,
WM. J. HARALSON,
Receivers.

U. S. Government in ac. with receivers A. & C. R. R.

1873.					
January 24.	By railway material purchased in 1865			30,248	52
	" interest on difference to Jan. 1st, 1873			13,668	36
	To cash 1865	1,300	00		
	" " 1867	2,000	00		
	" postal warrant, 1868	808	92		
	" " " 1869	450	00		
	" cash 1869	6,000	00		
	" " 1870	10,000	00		
	" postal warant, 1870	2,214	37		
	To balance carried to Jany. 1, 1873	21,143	59		
		43,916	88	43,916	88

1997 1873.

Jany. 1.	By balance due this date as per statement			21,143	59
May 2.	To postal services to March 31, 1873	15,276	28		
" 6.	" services military transportation	275	18		
" " "	" " " "	917	29		
" " "	" " " "	1,035	16		
" " "	" " " "	118	38		
" 22.	" interest per statement to May 2nd	23	99		
" 22.	By " " " to this date			14	94
Aug. 21.	To postal service for 2nd qr. 1873	2,775	55		
July 31.	By interest from January 1 to May 2, not heretofore reported			436	30
Nov. 5.	By interest from May to Oct., 1873			89	19
" "	To transportation military supplies	149	42		
" " "	interest 3% September	4	51		
" " "	postal warrant 3% 3d qr. '73	1,108	26		
		21,684	02	21,684	02

Respectfully submitted.

WILL R. CARLILE,
Aud't'r & Tr. for Receivers Rice & Haralson.

EXHIBIT A.

1998 ALABAMA AND CHATTANOOGA R. R.

Receivers' statement of expenses from October 1st, 1872, to November 1st, 1873.

Month.	Vouchers.	Pay-rolls.	Total.
October	41,941 01	35,224 94	77,165 95
November	49,125 16	41,194 67	90,319 83
December	34,845 65	26,851 25	61,696 90
January	88,831 91	38,200 66	127,032 57
February	29,690 33	30,769 23	60,459 56
March	45,554 92	35,788 83	81,343 75
April	79,188 50	27,910 29	107,098 79
May	14,319 13	16,827 85	31,146 98
June	6,944 15	7,443 11	14,387 26
July	6,423 84	6,587 35	13,061 19
August	6,608 72	6,297 62	12,906 34
September	426,831 60	29,293 13	456,124 73
	830,354 92	302,388 93	1,132,743 85
1873.			
October	13,520 70	14,773 30	28,294 00
	$843,875 62	317,162 23	1,161,037 85

N. B.—Stoppages for supplies on pay-rolls $42,732.07 to be deducted from employees when final payment is made.

1999 *Supplemental report, showing receipts and disbursements of Alabama and Chattanooga R. R. by Receivers Lewis Rice and W. J. Haralson, from October 1st, 1872, to November 1st, 1873.*

RECEIPTS.

Proceeds from sale of 419 certificates	378,391 85
Borrowed on certificates	88,177 76
Advances on certificates in agents' hands	230,359 38
From notes payable in New York & Boston	10,849 95
From notes payable in Chattanooga	16,738 11
From material and supplies sold	43,936 93
From the operations of the roads	307,316 53
From Lewis Rice & Son, Boston	104 44
Total	$1,075,874 95

DISBURSEMENTS.

On account vouchers	$791,339 26
On account pay-rolls	219,547 70
On account foreign roads	45,065 60
Interest-coupons paid at Ch'tt'a	1,000 00
Interest-coupons paid at N. Y.	17,920 00
Boston office (balance)	1,002 39
Total	$1,075,874 95

2000 ALABAMA & CHATTANOOGA RAILROAD.

Receivers' statement of outstanding indebtedness.

Notes payable	27,588 06
Vouchers—balance unpaid	52,536 36
Pay-rolls, do. do.	54,882 46
J. C. Stanton, balance due on land	114,893 32
Unadjusted claims, as follows:	
Seth Adams	600 00
Lovell's Locomotive Express	600 00
Taunton Car Company	1,118 24
E. H. Grandin, legal services	5,000 00
Lewis Rice & Son	104 44
F. B. Loomis	3,516 00
Thomas Clark	2,035 40
Wm. F. Drake	393 31
N. Y. office-rent	350 00
Interest due on notes payable	226 65
Warren & Whitney	40 00
	$266,097 09

Sundry unknown claims for stock killed, casualties, &c.
Filed in open court January 15th, 1874.

N. W. TRIMBLE, *Clerk.*

2001 *Receivers' report.—Murdock and Elliot, Jany.* 15, '74.

To the honorable W. B. Woods, judge of the circuit court of the United States for the fifth judicial circuit and southern district of Alabama:

The undersigned, appointed receivers for the Alabama and Chattanooga Railroad, by the order of the honorable J. P. Bradley, associate justice of the Supreme Court of the United States, on the 30th September, 1873, respectfully report to your honor that they assumed the duties of their office on the 5th day of November, 1873, as will be shown by order of organization hereto attached and marked "Exhibit A." Also attached an inventory of property received by us marked "Exhibits B and C."

The general management of the operations of the road was con-
2002 fided to Major L. J. Fleming, as chief engineer and general superintendant, a gentleman whose capacity and long experience assured us of his entire fitness for the situation, and whose report hereto attached and marked "Exhibit D," furnishes important information as to the present condition and necessities of the road, as well as to its future value and importance. Exhibit E contains detailed information as to side-tracks, bridges, and other matters, which should accompany the report of Major Fleming for the benefit of those who may hereafter be charged with the management of the property.

It will be seen from these reports, that the construction of the road, and the insufficiency of rolling-stock, with the absence of
2003 necessary funds for improvement, forbid the possibility of operating the road with any prospect of such results, as the cost of the enterprise and the expectations of those in interest demand.

The various changes which have taken place in the administration of the road produced great distrust as to the certainty of its continuing in

operation, and the failure to promptly pay the employees produced a demoralization along the road that was disastrous. The latter difficulty we have to considerable extent removed, by prompt payment of all obligations incurred by our orders, and the confidence of the people on the line of the road is steadily returning. We have had many claims against our predecessors, presented to us for materials,
2004 supplies, and labor, but have been unable to pay any of them for want of funds, and not having proper information to establish their accuracy. Some of these claimants advise us that they hold certificates, issued by the late receivers under the order of Justice Bradley, as collateral security for their claims, generally pledged at about fifty per centum of their par value. We have notified such as have communicated with us, that we could not recognize any sale of these securities at less than ninety cents on the dollar, as that condition was fixed by the order authorizing their issue. Some attempts have been made to sell these hypothecated certificates by auction, and we respect-
2005 fully ask that your honor will instruct us as to our duty in this matter.

The gross earnings for November were	$16,981
" " " " December were	27,464
Total	$44,445
Expenditure for same months	$20,074 12
December	21,909 13
	$41,983 25
Showing a net gain for two months	$2,461 75

This surplus of earnings is being expended in temporary repairs upon trestle-work and bridges which are absolutely needed to insure the safe running of trains.

We have full confidence that we can operate the road so as to meet to a reasonable extent the wants of the people through the districts which are dependent on it, and can make it pay the expenses of run-
2006 ning. Our intentions are to be careful not to increase the already large indebtedness, and to use any surplus from the earnings in the repair of such portions of the road as safety imperatively demands. In doing this we shall have nothing to apply toward payment of debts, due in many instances to those unable to suffer delay, while if this policy is not pursued the road will soon be in such condition as to forbid our operating it at all.

If all the certificates issued under the order of Justice Bradley should be sold at ninety cents, there would be sufficient funds to settle the present indebtedness; but as the interest on those certificates is fixed at eight per cent. per annum, it would create a debt upon the road
2007 of eight thousand dollars per month, which in its present condition could not be paid from its earnings.

Mobile, 6th January, 1874.

A. MURDOCK AND
FOSTER ELLIOT,
Receivers of the Alabama and Chattanooga Railroad.

Subscribed and sworn to before me this 7th day of January, A. D. 1874.

N. W. TRIMBLE,
Clerk U. S. Cirt. Court, 5th Circuit and Southern District of Alabama.

2008 EXHIBIT A.

ALABAMA AND CHATTANOOGA RAILROAD,
Chattanooga, November 5th, 1873.

The undersigned, appointed receivers of the Alabama and Chattanooga Railroad, by the honorable J. P. Bradley, one of the justices of the Supreme Court of the United States, sitting as circuit judge for the district of Alabama, in assuming charge of the road, announce the following appointments:

L. J. Fleming, general superintendent, with headquarters at Meridian.

R. C. McCalla, first assistant superintendent, with headquarters at Tuscaloosa.

C. O. Whitney, second assistant superintendent, with headquarters at Chattanooga.

2009 W. H. Elliot, auditor, with headquarters at Chattanooga.

W. R. Carlile, treasurer, with headquarters at Chattanooga.

The general superintendent will perform the duties of freight and ticket agent and purchasing agent.

The second assistant superintendent will perform the duties of superintendent of telegraph.

The treasurer will perform the duties of paymaster.

No person is authorized to issue free passes except the receivers.

The general superintendent and his assistants, master mechanics, and road-masters are authorized to issue trip-passes for men in their employ, when on business of the road, which fact must be stated in the pass.

2010 The general superintendent is alone authorized to make purchases of supplies, and the several heads of departments will make their requisitions upon him.

The treasurer will pay no money except upon the warrant of the auditor.

All persons having claims against the road are requested to present them to the auditor, who will register the same, and thus enable us to determine the amount of indebtedness and to whom due.

A. MURDOCK AND
A. FOSTER ELLIOT,
Receivers.

2011 EXHIBIT B.—*Inventory of property of Alabama and Chattanooga Railroad.—Shops, round-houses, etc., at Chattanooga.*

IRON-WORKING AND MACHINE SHOPS.

1 stationary engine and boiler, (12 horse.)
1 grindstone, (3 feet diameter,) box and connections.
1 stationary engine, (incomplete.)
1 Sturdevant blower, belting, and counter-shafting, complete.
1 large drill-press, (N. Y. S. E. Co.,) full set drills, complete.
1 small drill-press, (N. Y. S. E. Co.,) full set drills, complete.
1 small drill-press, (N. Y. S. E. Co.,) full set drills, complete.
2012 1 compound planter, with tools, complete.
1 planter, (N. Y. S. E. Co.,) tools, complete.
1 Dougherty bolt-cutter with dies.
1 Dougherty nut-tapper with tap.
1 (N. Y. S. E. Co.) lathe (swing 3 inches,) tools, complete.
1 (N. Y. S. E. Co.) lathe (swing 18 inches,) tools, complete.
1 (N. Y. S. E. Co.) axle-lathe, complete.

1 car-wheel boxing-machine (N. Y. S. E. Co.) complete.
1 wood-mortising machine, (not in order.)
1 steam-gauge tester, (Ashcroft.)
1 hydraulic wheel press, attachments complete.
6 iron vices.
1 coal stove and pipe.
13 rose-bit reamers.
9 fluted reamers, rasp $\frac{5}{8}$ inch to $1\frac{1}{8}$ inches.
23 odd taps, various sizes.
$\frac{3}{4}$ dozen pipe-dies, as follows:
2013 1 pipe die, $\frac{1}{4}$ inch; 1 pipe tap, 1 inch.
1 pipe die, $\frac{3}{8}$ inch; 1 pipe tap, $1\frac{1}{4}$ inch.
1 pipe die, $\frac{1}{2}$ inch; 1 pipe tap, $1\frac{1}{2}$ inch.
1 pipe die, $\frac{3}{4}$ inch; 1 pipe tap, $1\frac{3}{4}$ inch.
1 pipe die, 1 inch; 1 pipe tap, 2 inch.
1 pipe die, $1\frac{1}{4}$ inch; 1 pipe tap, $2\frac{7}{8}$ inch.
1 pipe die, $1\frac{1}{2}$ inch.
1 pipe die, 2 inch.
1 dozen ratchet drills, various sizes.
1 3-inch rose bit.
$\frac{1}{2}$ dozen stone-cutters' chisels.
1 set steel alphabetical letters.
1 set steel numbers, 0 to 9 incl.
1 nut.
2 belt-punchers.
1 small injector.
2 pipe cutters.
7 stocks and dies.
2 ratchets.
2 stocks for cutting thread in pipe.
2014 10 sets dies, various sizes.
3 tap wrenches.
36 feet $2\frac{1}{2}$ inch belting.
1 A. & C. R. R., stamp, (brass.)
$\frac{2}{3}$ dozen $\frac{3}{4}$ taps.
$\frac{1}{4}$ " 13-16 taps.
1-6 " $\frac{3}{8}$ taps.
$\frac{1}{4}$ " 9-16 taps.
$\frac{1}{4}$ " $\frac{5}{8}$ taps.
1-6 " $\frac{1}{2}$ taps.
$\frac{2}{3}$ " $\frac{7}{8}$ taps.
$\frac{1}{2}$ " 15-16 taps.
$\frac{1}{2}$ " 1-inch taps.
$\frac{1}{4}$ " 11-16 taps.
$\frac{1}{2}$ " $1\frac{1}{8}$ taps.
$\frac{1}{2}$ " $1\frac{1}{4}$ taps.
$\frac{1}{2}$ " 1 3-16 taps.
5 large drills for lathe.
1 chisel bar.
1 hack-saw.
1 follower wrench.
7 shop wrenches.
1 hand-machine for pressing crank-pins.
2 face-plates, 11 x 18 inches.
1 steel straight-edge, 3 inches wide, $\frac{3}{8}$ inch thick, 8 feet long.
2 12-inch jacks, incomplete.

2015 107 feet shafting, (main,) complete.
½ doz. section car-wheels, new.

ROUND-HOUSE.

10 sheets tank-iron.
900 feet iron ribbing.
14 sheets stack-iron.
1 work-bench.
1½ inch stock and dies.
1 lot boiler-makers' tools.
1 anvil.
1 swedge-block.
2 bellows.
1 punching-machine.
20 hammers, tongs, swedge, and purchase.
6 hydraulic jacks.
2 small sledges.
2 large sledges.
300 new boiler flues,
2 wood hand-screws.
5 vices, iron.
1 grindstone and frame.
1 pair counter scales.
3 pinch-bars.
2016 5 chisel-bars.
1 patent flue-expander.
150 lbs. tender-truck brasses.
1 pair frames.
1 red light, (old.)
2 white lights, (old.)
7 45-gallon oil cans and pumps.
35 gallons signal oil, (in cans.)
1 extra head-light, 20 gallons black engine-oil.
1 face-plate.
6 monkey-wrenches.
1 axe.
3 coal stoves and pipe.
1 dozen tin measures.
5 extra driving-springs.
50 lbs. packing-yarn.
1 clock.
1 tap auger.
2 chairs.
1 oak table.
1 coal-scuttle.
7 screw-jacks.
2 barrels cylinder oil.
1 " signal oil.
15 " car-grease.
3 " tallow.
18 " mineral paints.
2017 2 barrels light engine-oil.

STORE-ROOM, CARPENTER-SHOP.

30 yards plush, red and green.

1 counter scales.
1 cross-cut saw.
1 office chair, (B. O.)
9 coach candles, globes, (B. O.)
35 lbs. brass car-trimmings.
20 large coach globes.
3 small coach globes, (B. O.)
9 lamp-frames.
40 boxes glass.
4 lights French glass.
75 yards oil-cloth.
3 dozen hammer-handles.
520 gross screws.
20 " ex. gett. screws.
160 papers cut tacks, upholsterers'.
240 " brads.
210 " finishing nails.
15 " closet "
2 dozen imperfect car-locks.
780 lbs. log screws.
1,600 lbs. cut nails, (various sizes.)
2018 1 nail-hook.
182 coach-seat springs, 1 copper.
½ barrel glue.
60 lineal feet ½-inch gilt ¼-round moulding.
½ dozen stove-pipe flanges.
4 coach reflectors.
2 coach looking-glass, belongs to coach No. 2.

PAINT-SHOPS.

½ barrel varnish.
50 lbs. white lead.
40 gallons linseed oil.
3 45-gallon cans and 1 pump.
250 gallons red lead.
⅔ barrel putty.
25 lbs. raw umber.
½ barrel dry yellow ochre.
½ " chrome yellow.
25 lbs. burnt umber.
50 " Indian red.
50 " rose lake.
25 " chrome green.
75 " lump pumice-stone.
15 " pulverized pumice-stone.
2019 75 lbs. fancy paints, (broken packages.)
20 gallons benzine.
2 paint mills.
3½ boxes glass.
3 boxes glass, various sizes, in rack, loose.
1 wardrobe.
7 new paint-brushes.
2 new dusters.
4 dozen tube colors, (assorted.)
3 lbs. Chinese vermillion.

2 dozen stripe pencils.
1 small coal-stove and pipe.
1 old work-bench.
½ barrel coal-tar.
1 ticket case, (small.)
1 dozen paint-brushes, (in use.)

WOOD-WORKING MACHINE-SHOPS.

70 feet main shafting, complete.
1 planer and marker, (R. Ball & Co.)
1 circular saw and table, (R. Ball & Co.)
1 moulder, (R. Ball & Co.)
2020 5 work-benches, with 4 vices.
1 small pine desk.
1 circular saw, 2 feet 5 inches diameter.
1 circular saw, 1 foot 10 inches diameter.
1 circular saw and table.
1 planing-machine, (R. Ball & Co.)
1 double shaping-machine.
1 ten*nant*-machine, (J. A. Fay & Co.)
1 scroll saw and table, (complete,) ½ dozen extra saws.
1 saw-gummer.
1 boxing-machine, (R. Ball & Co.)
1 mortising-machine, (R. Ball & Co.)
1 cut-off saw and table, complete.
1 large planing-machine and bed, complete, (R. Ball & Co.)
1 small hand-boring machine.
1 wheelbarrow.
1 old scoop-shovel.
1 coal-stove and pipe.
2021 28 feet old belting, 6 inches wide.
1 circular saw, 1 foot 2 inches diameter.
2 circular saws, 1 foot diameter.
2 circular saws, 10 inches diameter.
1 circular saw, 9 inches diameter.
1 extra set (3) knives for planer.
1 cross-cut saw.
1 wood-screw on clamp.
50 feet walnut lumber.
300 " base cap for car-shed.
900 " bolting for car-shed.
150 " ash.
50 " poplar.
1500 " square oak timber for car-truck frames.
50 " strip mouldings.
100 " hammer-handles, unfinished.
170 lineal feet drops, (for car-shed.)
1 duster, (for shavings.)

2022 BLACKSMITH-SHOP.

1 spring furnace, (in bad repair.)
6 forges.
5 anvils.
9 sledge-hammers.

3 blacking hammers.
190 chisels, swedge, Fuller punches and swedges.
1 crane.
92 pair tongs.
6 track-wrenches.
1 wheel-barrow and shovel.
1 spring roller.
1 swedge-block.
1 lorn block.
1 face-plate.
1 bolt-header and dies.
1 oil-tank and oil for tempering springs.
500 lbs. pieces spring and cast-steel mixed, (est.)
22 pieces heading-tools.
3 spring clamps.
1 scoop-shovel.
2 old wood buckets.
1 old iron bucket.
2023 1 square.

CAR-REPAIR DEPARTMENT.

2 barrels car-grease.
2 small jacks and levers.
3 large jacks and levers.
1 small coal-stove and pipe.
1 small sledge-hammer.
3 monkey-wrenches, (old.)
1 oil-pump.
1 chisel-bar.
19 car brasses, (new.)
50 lbs. old scrap-brass.
2 grease-buckets and hook and paddle.
1 spike-maul.
2 hammers.
3 S-wrenches.

CAR-BUILDING SHOP.

16 work-benches, (old.)
5 wood vices.
1 iron vice.
2 ladders.
2 coal-stoves and pipe.
2024 2½ barrels nails and screws, (burnt.)
1 bridge-wrench.
100 boxes car-springs, 2 each.
22 " " " 4 each.
10 " " " 6 each.
1 old sledge.
700 feet car-lumber.
250 feet old culled scrap-lumber.
4 framing-trestles, (large.)
6 framing " (small.)

PATTERN-SHOP.

1 wood-turning lathe.
1 clicking-machine.
3 working benches and vices.
11 hand-screws.
1 coal-stove and pipe.
1 draughting-board and 4 stools.
50 feet walnut lumber.
250 feet pine lumber.
1 lot engine and car patterns.

2025 COPPERSMITH'S SHOP.

1 bellows.
1 anvil.
1 forge, brick.

DRY-HOUSE.

1 boiler and steam-gauge, complete.
600 feet piping, (in dry-house.)
1 coal-stove, old.

MASTER-MECHANIC'S OFFICE.

1 coal-burning stove and pipe.
1 water-bucket.
1 wash-basin.
1 tin cup.
1 tin letter-box.
1 coal-scuttle.
1 fire-shovel.
1 iron poker.
1 china spittoon.
1 duster.
1 brush.
2 cane-seated office chairs.
2026 1 75-foot tape-line.
1 wood office-chair.
1 split-bottom chair.
4 inkstands.
1 8-day clock.
1 wardrobe.
1 pine desk.
1 set pigeon-holes.
1 walnut desk.
1 draughtsman's desk.
1 student's lamp.
1 pine table.
1 letter-press book and cup.
1 waste-basket.
1 rubber spittoon.
1 paper-weight.
1 letter-file.
6 wire files.

1 ticket-stamp.
1 bulletin-board.
1 mirror (coach.)
1 small ticket pigeon-hole case.
1 paper-folder (iron.)
1 lot stationery, blank-books, papers, &c.

2027 STORE-ROOM AT SHOPS.

1 pine desk.
1 coach-mirror.
5 yards cotton flannel.
1 side lamp and reflector.
1 small stand-lamp.
1 side-lamp.
2 papers stove-polish.
1 small inkstand.
3 wire files.
1 office-chair.
4 engine-gongs.
2 engine-gongs (old.)
1 box glass (10 x 20.)
1 dozen ventilator-frames.
21 balls lamp-wick.
4 5-gallon galvanized buckets.
20 " cans varnish.
7 " cans black lustre.
25 lbs. ult. marine blue.
50 " English vermillion.
8 5-lb. cans raw Turkey umber.
8 " " burnt Turkey umber.
4 " " Prussian blue.
2028 11 5-lb. cans, N. new green.
7 " " India red.
3 " " Naples yellow.
10 2-lb. " silver white.
1 1-lb. " " "
8 5-lb. " orange chrome yellow.
7 " " golden ochre.
7 " " royal red.
5,610 lbs. brass castings, (various kinds.)
1 Sellerf steam injector.
250 rubber washers.
3 pair exhausts.
2 caps for sand-box.
11 tin plates.
4 tin waiters for cars.
1 dozen old, broken monkey-wrenches.
24 feet bell-cord.
105 lbs. wire-netting for stack.
2 engine oil-cans.
2 " " " (old.)
1 head-lamp (kerosene burner.)
2 2½-gallon tin cans.
1 large tackle-block.
20 red lights (lantern.)

13 white lights (lantern.)
2029 1,835 lbs. coil chain.
10 " copper wire.
10 " rabbitt metal.
1½ dozen brass steam gauge-cocks.
73 monkey-wrenches.
140 lbs. railroad spikes.
110 " rivets.
210 " washers, small.
3,230 " assorted nuts.
110 " log-screws.
500 " iron washers.
300 " carriage-bolts.
4 dust-brushes.
4 5 lb. cans Tuscan red.
18 " " raw sienna.
18 " " Italian burnt sienna.
8 10 lb. " western red.
8 " " Quaker green.
2 " " ivory-drop black.
3 bottles sulphuric aicd.
1½ dozen 5-0 brushes.
1⅜ " 4-0 "
4½ " varnish brushes.
1 signal-lamp, white.
1 barrel Paris green.
2 barrels boiled linseed-oil.
¼ barrel black japan varnish.
2030 2 barrels coach varnish.
½ barrel rubbing varnish.
½ barrel outside coach-varnish.
25 lbs. lampblack.
8 dozen tube colors, assorted.
1,562 lbs. cast-steel.
5,550 " spring-steel.
240 " sheet-brass.
1 old (30-inch) circular saw.
206 lbs. old scrap-brass.
93 " " " copper.
240 " Russia sheet-iron.
600 " brass and copper pipe (old and burnt.)
2 engine-buckets.
75 lbs. chalk.
8 " brass wire.
1 dozen brass globe-cocks.
100 feet leather be'ting (3 inch,)
150 " " " (2½ inch.)
1 air-chamber for pump.
7 quires emory-cloth.
25 feet 12-inch belting.
49 old padlocks (without keys.)
⅜ box concentrated lye.
250 14-inch files (new.)
58 10 " " "
387 12 " " "

2031 151 10-inch files, (new.)
13 8 " " "
176 head-light chimneys.
13 red-light globes.
1 ratchet.
175 lbs. iron wire.
6 oil-strainers.
1 hand-screw.
2 jack-screws.
1 pair Fairbanks' No. 10 scales, (platform.)
1 claw-bar.
2 A. & C. R. R. stamps, (iron.)
3 old rubber car-springs.
22 iron bench-screws.
1 steam-governor.

LUMBER.

130,199 feet pine timber.
2,004 " oak plank.
4,080 " oak timber.
10,252 " dry house.
5,000 " outside of yard.
1,980 " ash plank.
1,000 " poplar plank.
888 " walnut plank.
1,565 feet pine timber.
2032 1,584 " maple plank.
1,300 " ash plank.
4,485 feet walnut plank.
6,464 " pine plank, worked car-flooring.
2,415 " pine plank, dressed.
1,500 " " " tank-plank.
15,220 " " " worked flooring.
2,000 " " plank, scraps.

OUTSIDE OF SHOPS.

5 section car-wheels.
70 car-wheels, (new.)
1 claw-bar.
1 pinch-bar.
98 car-wheels, (old,) on axles.
2 tender-wheels, (old,) on axles.
5,000 lbs. old scrap cast-iron, (estimated weight.)
3,000 " wrought scrap-iron, (estimated weight.)
600 " fish-bars; (new.)
2,000 " iron for car-truck frames.
2 cast-iron ties for drivers.
2033 2,000 lbs. old car-springs.
2 hand fire-engines.
1 track-jack.
4,000 lbs. new engine-castings.
7 old axles.
3,000 lbs. assorted bar-iron.
8 car-housings for cars, (new.)

7,500 castings.
600 feet old pipe, (various sizes.)
1 old wheelbarrow.
1 small truck-car.

AUDITOR'S OFFICE.

1 office-safe.
2 double desks, (walnut.)
2 walnut desks.
1 large counter-desk and stationery-case.
1 office-case for stationery.
1 office-clock.
6 office-chairs.
1 letter-press and stand.
1 stove.
9 inkstands.
5 paper-weights.
3 spring-cups.
2034 3 cancelling-stamps.
1 post-office letter-scale.
1 office-lamp.
1 gas-chandelier, (2 lights.)

GENERAL SUPERINTENDENT'S OFFICE.

7 office-chairs.
1 marble-top centre-table.
1 stove.
1 china spittoon.
1 desk-chandelier.
1 letter-press and stand.
6 floor-mats.
1 work-basket.
3 inkstands.
1 sponge-cup.
2 paper-weights.
1 calendar.
1 office-bell.
1 letter-box.
1 carpet.
1 walnut flat-top desk.

2035 ASSISTANT SUPERINTENDENT'S OFFICE.

1 walnut desk, large top drawer.
1 " desk with top.
1 stove.
3 oak cane-bottom revolving chairs.
3 waste-baskets.
1 office-clock.
1 letter-press and stand.
2 spittoons.
1 bulletin-board.
Matting on floor.

GENERAL FREIGHT AND TICKET OFFICE.

2 walnut desks.
1 " desk, standing.
1 double secretary.
1 letter-press and stand.
1 office-table.
2 cane-bottom revolving chairs.
1 wood arm-chair.
4 oak cane-bottom chairs.
2036 2 desk-stools.
3 spittoons.
3 waste-baskets.
9 inkstands.
4 sponge-cups.
4 metal'ic paper-weights.
1 letter-box, (tin.)
1 desk-lamp for gas.
2 cancelling-stamps.
1 feather-duster.
1 tin case bill-heads.
1 letter-scale.

ENGINEER'S OFFICE.

1 engraving-bureau and rack for profiles.
1 walnut desk with drawer.
1 " " " cupboard.
1 letter-press and stand.
6 office-chairs.
1 stool.
2 rubber spittoons.
3 inkstands.
3 metallic weights.
1 mucilage-stand.
1 cup and brush.
1 stove.

2037 LOCAL AGENT'S OFFICE.

1 iron safe.
1 standing desk.
1 sitting-desk.
1 letter-press and stand.
1 chair.
1 stool.
2 stoves.
1 mucilage-stand.
2 inkstands.
1 paper-weight.
3 pairs trucks.

STATIONS.

Waupatchie.—One-half interest in telegraph-instruments.
Morganville.—1 brick depot, 18x40 feet; 1 stove and pipe; 1 set books; 3 section-houses; 1 lantern; 1 lamp; 1 dump-cart.

Trenton.—1 brick warehouse, 50x30; 1 brick passenger-depot,
2038 35x18; 4 section-houses; 1 platform-scales; 1 truck; 2 dump-cars; 1 desk; 1 crank-car; 4 chairs; 1 ticket-case, patent; 1 letter-press; 1 stove and pipe; 1 platform, 100x10.

Mile-post No. 22.—1 water-tank; 1,500 feet iron pipe.

Section No. 5.—3 section-houses.

Rising Fawn.—1 brick passenger-depot, 18x55; 1 stove and pipe; 1 table; 1 set books; 1 red lamp; 1 white lamp.

Cloverdale.—1 stone depot, 20x40; 1 stove and pipe.

Section No. 6.—2 log houses; 1 frame house; 1 dump-car.

Sulphur Springs.—1 brick depot, 18x50; 1 stove and pipe; 3 chairs.

2039 *Valley Head.*—1 brick depot, 30x60; 1 box water-tank; 800 feet iron pipe, each 1½x2; 1 ram; 3 section-houses; 1 letter-press; 1 large pair Fairbanks' scales; 2 ticket-cases, (pt.;) 1 stove and pipe; 1 truck; 1 red light; 1 white light; 1 oil-can.

Section No. 8.—3 section-houses; 738 feet railroad-iron, 56 lbs. to the yard.

Fort Payne.—1 brick depot, 18x60; 3 section-houses; 2 stoves
2040 and pipe; 1 letter-press; 1 coal-hod; 1 platform-scales; 1 truck; 1 ticket-stamp and type.

Porterville.—1 stone depot, 18x40; 3 section-houses; 1 platform-scales; 1 truck; 1 desk; 1 stove and pipe; 6 chairs; 1 ticket-case.

Brandon's.—3 section-houses; 2 round water-tanks; 1 dump-car; 1,200 feet water-pipe, (iron.)

Collinsville.—1 stone depot, 20x60; 3 section-houses; 1 stove and pipe; 2 tables; 1 platform-scales; 1 truck; 3 chairs; 1 ticket-
2041 case; 1 copying-press; 1 clock; 1 white lamp; 1 red lamp.

Greenwood.—1 frame depot, 25x50; 3 section-houses; 1 dump-car.

Reese's.—1 frame depot, 25x50; 1 water-tank; 400 feet water-pipe, (iron;) 1 ram; 1 platform-scale; 648 feet railroad-iron; 3 section-houses.

Attala.—1 engine-house; 6 stalls; 1 turn table; 1 water-tank; 1½ miles water-pipe, 1½-inch, 7,920; 1 frame warehouse, 25x75; 1
2042 dump-car; 1 desk; 3 chairs; 1 copying-press; 1 platform-scales; 2 trucks; 1 office-stove and pipe; 1 hotel.

Steele's.—1 frame depot, 25x50; 6 section-houses.

Mile-post, No. 98.—1 water-tank; 1,500 feet water-pipe, (iron.)

Ashville.—1 frame depot, 20x60; 3 section-houses; 1 platform-scales; 1 truck.

Caldwell's.—3 section-houses.

Springville.—1 frame depot, 32x75; 3 section-houses; 1 water-
2043 tub; 1 crank-car; 2 dump-cars; 1 platform-scales; 1 truck; 1 letter-press; 1 ticket-case; 1 table; 1 table with desk; 1 stove and pipe.

Between mile-posts 121 *and* 122.—3 section-houses.

Mile-post No. 125.—1 water-tank; 1,600 feet water-pipe, (iron.)

Trussville.—1 frame depot, 30x75; 1 set books; 1 set stone-mason tools and derrick; 1 section-house.

Mile-post No. 136.—1 section-house.

2044 *Birmingham.*—1 coal-shute; 3 section-houses; 3 trucks; 1 turn-table; 535 feet platform; 2 water-tanks; 1 engine for pumping; 400 feet water-pipe.

Elyton.—1 frame depot, 32x105; 1 letter-press; 1 ticket-case, (pat.;) 1 desk.

Section No. 25.—1 section-house; 1 dump-car.
Jonesboro'.—2 water-tanks; 2,600 feet water-pipe, (iron;) 1 platform, 16x65.
Pleasant Hill.—3 section-houses; 1 dump-car.
Thomasson's switch.—1 section-house; 1 dump-car.
2045 *Woodstock.*—1 section-house; 1½ pair car-trucks.
Bibbville.—1 dump-car; 1 depot.
Vance's.—2 water-tubs; 1,000 feet water-tanks; 1 depot; 56 feet railroad-iron; 1 section-house.
Smallwood.—1 depot.
Clements'.—2 dump-cars.
Bromis tank.—1,000 feet water-pipe; 1 water-tank.
Kennedale.—2 dump-cars; 1 section-house; 71 feet railroad-
2046 iron; 1 crank-car.
Tuscaloosa.—1 turn-table; 1 depot, 15x20; 2 desks; 1 letter-press; 1 platform; 1 tool-house; 1 horse-power; 1 white lamp; 2 red lamps; 1 bulletin-board; 6 chairs; 2 water-buckets; 1 pump; 270 feet railroad-iron; 30 tamping-picks; 1 5-foot tank-pump.
Maxwell's.—1 dump-car; 1 water-tub; 900 feet water-pipe, (iron.)
Hull's.—2 crank-cars.
2047 *Beaver Pond bridge.*—1 pile-driver.
Carthage water-tank.—1 water-tank; 1 pump; 1 stool.
Stewart's.—1 crank-car; 1 dump-car; 1 platform.
Eutaw.—1 frame depot, 15x45; 1 platform, 27x50; 1 truck; 1 platform-scale; 1 letter-press; 1 desk; 2 chairs; 1 stove; 1 water-tank and well; 1 hand-pump; 1 crank-car; 1 dump-car; 1 turn-table; 1 section-house.
2048 *Mile-post No. 222.*—1 section-house; 1 dump-car.
Haysville.—1 section-house; 4,500 feet of lumber for platform.
Boligee.—1 section-house; 1 stove; 1 water-tank; 1 hand-pump.
Epps.—1 crank-car; 1 ticket-case; 1 brick depot, 25x60; 1 stove; 1 ticket-stamp; 1 letter-press.
Brown's Cut.—1 dump-car; 1 section-house; 57 feet railroad-iron.
2049 *Livingston.*—1 brick depot, 27x65; 1 letter-press; 1 desk; 5 chairs; 1 ticket-case; 1 ticket-stamp; 1 clock; 1 red light; 1 stove; 1 truck; 1 tool-house; 3 section-houses; 2 dump-cars.
Between Livingston and York.—1 dump-car; 3 section-houses; 1 tool-house.
York.—1 frame depot, 16x40; 1 letter-press; 1 table; 1 desk; 1 horse-power; 1 pump; 2 water-tanks.
2050 *Cuba.*—3 section-houses; 1 tool-house; 1 crank-car; 1 frame depot, 18 x 25; 1 stove; 1 letter-press; 1 truck; 1 desk; 1 ticket-stamp; 1 ticket-case.
Toomsuba.—1 desk; 1 chair; 1 truck; 1 frame depot, 20x50; 3 section-houses; 1 tool-house; 1 dump-car.
Between stations.—40,000 cords ties; 2,000 cords wood; 85 tons railroad-iron; bridge and trestle lumber; 350 tamping-picks; 200 clay-picks; 85 spike-hammers; 135 stone-hammers; 16 sledge-ham-
2051 mers; 500 shovels; 60 mattocks; 40 track-jacks; 50 track-gauges; 20 monkey-wrenches; 75 track-wrenches; 100 claw-bars; 75 lining-bars.

Section-houses, tools, and material.

NORTHERN DIVISION.

60 section-houses.
27 truck-cars.
5 hand-cars.
148 tamping-picks.
93 clay-picks.
42 spike-hammers.
148 shovels.
1½ kegs track-bolts.
6 " spikes.
35 cold-chisels.
3 ratchet track-jacks.
19 screw-jacks, (track.)
3 monkey-wrenches.
41 track-wrenches.
11 sledges.
52 claw-bars.
2052 33 crow-bars.
11 axles.
11 adzes.
12 white lamps.
18 red lamps.
5 red signal-flags.
1 tape-line.
2 briar-scythes and snaths.
28 track-gauges.
68 wheelbarrows.
10 gallon oil-cans.
21 tool-chests.
10 patent chairs and bolts.
150 cart-spokes.
1 log-chain.
7 water-buckets.
5 wedge and feathers for lifting stone.
4 blasting-drills.
5 blocks and falls.
111 shovels, unserviceable.
34 mattocks.
3 shovels with long handles.
1 track-lifter.
34 pick-handles, (new.)
31 tamping-picks, unserviceable.
12 clay-picks, unserviceable.
4 stone-hammers, unserviceable.
2053 1 grindstone.
36 spike-hammer handles, (new.)
42 splices or fish-plates, (sets.)
1 lock and key for tool-box.
50 track-chairs.
14 cement-barrels.
3 scrapers.
3 blacksmith-bellows.
8 single-trees.

4 double-trees.
3 cooking-stoves.
1 heating-stove.
30 head-drills.
2 churn-drills.
1 iron tongs.
66 stone-hammers.

SOUTHERN DIVISION.

25 axes.
20 adzes.
60 lamps.
15 oil-cans.
10 water-buckets.
20 wheelbarrows.
30 tool-chests.
75 cold-chisels.
175 fish-plates.
2054 9 kegs spikes.
15 signal-flags.
2 grindstones.
10 derrick-blocks.
60 pick-handles.
60 hammer-handles.
5 chains and locks for hand-cars.
50 fish-bolts.
2 sets switch-rods.
50 double chairs.
Large lot miscellaneous material.

TELEGRAPH-LINE AND MATERIAL.

295 miles telegraph-line.
2 miles telegraph-registers, damaged.
12 new registers.
22 relays.
23 plug-switches.
23 plugs.
13 sets register-weights.
18 lightning-arresters.
20 transmitting-keys.
20 ground-switches.
15 battery-boxes.
2055 24 paper boxes.
36 jar local battery, complete.
15 instrument-tables, (pine.)
1 instrument-table, (walnut.)
8 blue-stone boxes.
9 sounders.
3 Tillotlson mh. combinations.
5 letter-clips.
1 stove.
1 chair.
1 broom.
8″ mercury.

137 main-battery zincs.
149 " " porous cups.
132 " " carbons.
1 6-gallon jar.
1 4- " "
1 glass funnel.
91 main-battery tumblers.
117 " " posts.
93 " " clamps.
132 platina button connections.
4 main-battery stands, complete.
1 main-battery syringe.
175 lbs. sulphuric acid.
30 " bichromatic potash.
520 " galvanized-iron wire, No. 9.
3 sets Buckley's stretcher.
2056 3 pairs climbers.
4 local-battery jars, earth.
5 long-handle shovels.
10 lbs. 8-penny nails.
10 " 20 " "
25 " 40 " "
1 " silk-covered register, coil-wire.
40 kegs binding-screws.
40 porcelain knobs.
14 lbs. register-paper.
6 " office-wire.
10 battery-brushes.
18 6-inch bolts.
6 3-inch bolts.
1 1¾-inch auger.
1 iron square.
1 1¾-chisel.
4 small bitts.
1 monkey-wrench.
1 drawing-knife.
25 local porous cups, (old.)
3 pairs cutting-plyers.
3 hand-vices.
2 10-inch files.
2 hand-axes.
2 diggers.
2 chopping-axes.
2 ladders.

2057 BUILDINGS, ETC., AT CHATTANOOGA.

1 freight-depot and offices.
1 passenger-depot.
1 union passenger-depot.
1 round-house.
1 machine-shop, wood and iron working.
1 repair-shop.
1 dry-house.
1 lumber-shed.
1 oil-house.

1 transfer-platform, 545 ft. long.
1 turn table.
1 water-tank.
1 pair railroad-track scales.
3 pairs Fairbanks' warehouse-scales.

LOCOMOTIVES.

No.	Name.
1.	Wheeler.
2.	Bingham.
3.	Alabama.
4.	Massachusetts.
5.	Gov. Smith.
2058 6.	Georgia, No. 2.
7.	Tennessee, (14 m.)
8.	Mazeppa, (9 m.)
9.	Georgia, (12 m.)
10.	Mississippi.
11.	D. N. Stanton
12.	Rhode Island.
13.	H. E. Waite.
14.	R. Cravath.
15.	Sampson, (switch-engine.)
16.	I. P. Stanton.
17.	I. C. Stanton.
18.	H. M. Smith.
19.	R. C. McCalla.

CARS.

13 passenger-coaches.
1 sleeping-coach, (under repairs.)
6 baggage-cars.
5 express-cars.
12 cabooses.
1 wrecking-car.
90 box-cars.
5 stock-cars.
94 flat cars.
25 coal-cars.

2059 BUILDINGS AT MERIDIAN.

1 turn-table in good order.
1 machine-shop, 134 x 34.
1 wood-shop.
1 blacksmith-shop.
1 engine-house.
1 store-room.
1 office.
1 freight and passenger depot.

OFFICE AT MERIDIAN.

7 stoves.
1 pair scales.
1 pair warehouse-scales.

1 pair car-scales.
2 pair trucks.
15 gallons linseed-oil.
1 alarm-bell.
1 clock.
5 office-desks.
1 " safe.
2 " chairs.
1 " press.
2 bulletin-boards.
3 letter-boxes.
2 lamps.
2060 1 ticket-case.
5 inkstands.
4 stamps.
2 seals.
6 cotton-hooks.
6 red lights.
3 brooms.
2 spittons.
5 benches.
1 head-light reflector.

EXHIBIT C.

Property at Meridian.

1 hand-car, bad order.
2 sets flues, (new,) 1¾-inch.
2 lever-cars, good.

MACHINE-SHOP.

1 boiler and engine, (Wood & Mann,) 12 horse-power.
1 planer, 5½ feet by 20 inches, (N. Y. S. E. Co.)
2061 4 tools for same.
1 drill-press, (N. Y. S. E. Co.)
27 drills for same.
1 32-inch lathe, with full set gearing, (N. Y. S. E. Co.)
6 tools for same.
1 16-inch lathe, with full set gearing, (N. Y. S. E. Co.)
16 tools for same.
1 bolt-cutter, (N. Y. S. E. Co.)
1 fan.
1 hydraulic press.
1 grindstone, 4 feet 7 inches.
60 feet shafting, 2½ inches.
4 shaft-couplings.
12 pulleys.
5 adjustable hangers.
2 stationary "
5 counter-shafts, hanger and shipper.
1 pump counter-shaft.
35 feet belting, 10-inch.
28 " " 6 "
40 " " 8 "

3 claw-bars.
4 pinch "
3 hydraulic jacks, (out of order.)
1 pair screw " (good order.)
1 platform scales, (broken.)
2062 5 pair trucks, 32 inch wheel, (old.
2 " " 32 " " "
1 " " 26 " " "
6 wheels and axles, 32 inches, (all old, 1 broken.)
1 cast cooling-box, 120 lbs.
5 tail-castings for tender, 250 lbs. each, (new.)
7 switch casts, 95 lbs. each, (new.)
3 " " 50 " " "
3 " " 80 " " "
1 " " 55 " " "
2 " " 25 " " "
5 cast single grates, 100 lbs. each, (new.)
4 cast double grates, 185 lbs. each, (new.)
6 cast truck-boxes, 65 lbs. each, (new.)
18 cast angle-plates, 8 lbs. each, (new.)
2 cast spring-saddles, 28 lbs. each, (new.)
3 cast bearers for hand-car, 48 lbs. each, (new.
6 cast brake-shoes, 18 lbs. each, (new.)
1 cast check, 40 lbs., (new.)
2063 2 cast shoes for tender and springs, 20 lbs. each, (new.)
2 cast centre-plates, 92 lbs. each, (new.)
2 box casts, 80 lbs. each, (new.)
2 " " 80 " " (old.)
429 lbs. $1\frac{3}{4}$-inch-square iron.
315 " $3\frac{1}{4} \times \frac{3}{8}$ spring-steel.
200 " $4 \times \frac{1}{4}$ " "
180 " $2 \times \frac{5}{8}$ blister "
352 " $1\frac{3}{4} \times \frac{5}{8}$ iron.
210 " $1 \times 2\frac{1}{4}$ "
110 " $1\frac{1}{2}$ round iron.
115 " $\frac{3}{4}$ " "
166 " $\frac{5}{8}$ square "
5 pair wheels and axles, 30 inches, (old.)
1 pair wheels and axles, 26-inch wheel, (old.)
7 pair wheels and axles, dump-car, (old.)
43 car-axles, (2nd-hand,) estimated 288 lbs. each.
2 new truck-wheels, 26-inch.
2 " " " 28 "
2 " " " 30 "
34 truck wheels, 30 inch, (old.)
4 " " 26 " "
1 " " 28 " "
2064 2 hand-car wheels, (old.)
1 wrecking-car chain.
36 bridge-rods, (20 feet long.)
6 bbls. fish-bar bolts.
1 keg spikes.
50 cast washers.
512 lbs. bridge-plates, 6 x 8.
3 old switch-stands.
3 old pumps.

19 tamping-bars.
200 lbs. 1½-inch nuts.
40 lbs. ¼ x ½ iron.
42 " ½ rod "
52 " 1-inch square iron.
100 " ¾ " " "
129 " 2 " round "
1,110 " 4 x ¼ iron.
1,320 " 2½ x ½ "
370 " 2½ x 1 "
500 " old castings.
6,000 " old wrought scraps.
12 feet belting, 5 inch.
136 " " 4 "
164 " " 3 "
80 " " 2 "
24 " " 1½ "
3 iron vises.
8 rose-bitts.
1 pair ⅜-inch taps.
2065 8 taps.
8 setts dies.
2 wrenches.
4 monkey-wrenches.
12 open-end wrenches.
8 socket-wrenches.
2 dump-car axles.

CARPENTER-SHOP.

1 wood-planer, (H. B. Smith, Southville, N. J.)
3 work-benches.
3 wood vises.
1 grindstone, 16 x 3½ inches.

OFFICE.

1 desk
1 desk and table.
2 chairs, (good.)
2 chairs, (broken.)
2 stoves.

2066 STORE-ROOM.

140 lbs. hexagon steel.
125 " waste.
184 " rabbitt metal.
200 " new brass castings.
2 pair platform-scales.
1 head-light case, (good.)
9 " chimneys.
120 lbs. 1½-inch rope, (old.)
25 " ¾ " " (new.)
15 " packing-yarn.
1 set blocks and tackle, 1 inch.

1 oil-can.
3 " cans with pumps.
4 truck-brasses, 7 lbs. each.
1 letter-press.
30 picks.
4 " with handles.
1 adze.
1 "
1 saw mandril.
½ barrel black oil.
1 " lard "
½ " can-grease.
50 lbs. tallow.
200 " nails, assorted.
½ barrel plaster Paris.
2066½ 1 switch-chain.
1 20-inch saw.
1 24 " "

BLACKSMITH-SHOP.

23 pairs blacksmith-tongs.
4 blacksmith chisels.
14 tap-swedges.
3 sledge-hammers.
9 bottom-swedges.
1 swedge-anvil.
1 " tool.
1 plate for springs.
2 hand-bellows.

DEPOT.

1 pajr warehouse scales, (good order.)
1 " car-scales, (good order.)
1 " platform " (bad order.)
2 " warehouse trucks, (good.)
2 car-seals. "
1 barrel, 15 gal., lard-oil. "
7 old stoves, (medium.)
1 alarm-bell, (good order.)
2067 1 clock, (good order.)
2 stamps, " "
6 red lights, " "
2 bulletin-board, (good order.)
3 letter-boxes, " "
2 office-lamps, " "
2 spittoons, " "
1 hatchet, " "
4 inkstands, " "
3 desks, " "
1 iron safe, " "
2 office-chairs, " "
2 letter-presses, " "
3 brooms, " "
1 ticket-case, (lock broken.)

EXHIBIT D.

Report of general superintendent.

OFFICE OF ALABAMA AND CHATTANOOGA RAILROAD,
Meridian, Miss., December 19, 1873.

A. FOSTER ELLIOTT,
Hon. A. MURDOCK,
2068 *Receivers Alabama and Chattanooga Railroad:*

GENTLEMEN: In accordance with your instructions, I have made a careful examination of the property included in the first mortgage made by the Alabama and Chattanooga Railroad Company to the State of Alabama, and have the honor to submit this report for your information.

The Alabama and Chattanooga Railroad resulted from the consolidation of the Northeast and Southwest Alabama and the Wills Valley Railroad.

The Northeast and Southwest Alabama Railroad was chartered by the State of Alabama on the 12th day of December, 1853, and the
2069 construction of it was commenced in 1854 upon capital derived from individual and county subscription, to which was afterward added the means obtained from a sale of first-mortgage bonds and the three per cent. fund loaned by the State of Alabama. Additional aid was also obtained from Congress by a donation of 289,555 acres of land and an undivided interest with other railroads in other lands. The work of construction was prosecuted until the beginning of the war, at which time the tract was completed from Meridian to York, a distance of 27 miles, and a larger part of the heavy graduation between the latter point and Tuscaloosa, together with the ma-
2070 sonry over the Bigby and Warrior Rivers, were completed. The company owned no rolling-stock, and no attempt was made to operate the road until the connection was made by the Alabama Central in 1864. From that time until the formation of the Alabama and Chattanooga Railroad Company it was operated either by the Alabama Central or the Mobile and Ohio Railroad.

The graduation is similar to other southern single-track roads, except that wooden culverts are used under the high embankments and trestle-work at other places as more economical than embankments in first cost. The maximum grades are 52 $\frac{8}{10}$ feet per mile, and the curves do not exceed 1,910 feet radius. The extreme limit of the durability of
2071 the wooden culverts has been reached, and a heavy expenditure will soon be required to tunnel the embankments and construct stone culverts, or the business will inevitably be interrupted by the washing away of the banks. This road was laid with a rail weighing 50 lbs. per yard, connected by wrought-iron lip-chain joint-fastenings. About seven miles of the track was torn up during the war and the rails bent, but about five miles have been replaced by 56-lb. fish-bar rails, similar to those on the Alabama and Chattanooga Railroad. This road has, therefore, had ten years' use, but the depreciation, except for the wooden culverts and rails, has been met by repairs.

2072 The Wills Valley Railroad was chartered 3rd day of February, 1852, and the construction commenced soon after, upon capital derived from individual and county subscriptions, mortgage-bonds, and aid from the State. At the beginning of the war the track was laid from Wauhatchie, the point of connection with the Nashville and Chattanooga Railroad, to Trenton Station, a distance of about 12 miles, and

a part of the graduation south of the latter point had been commenced. The finished part of this road was, with slight interruptions, operated during the war, and the depreciation, except rails, has been covered by the current repairs.

These two companies, which were intended to form one line,
2073 found it impossible after the war to continue the construction of their roads, or to meet the interest on their mortgage-debts.

The Alabama and Chattanooga Railroad Company was chartered 6th of October, 1868, and by subsequent negotiation and legislation became possessed of the franchises and property of both companies, as well as the aid extended by the general law of Alabama, for the endorsement of its bonds to the extent of $16,000 per mile of road. The work of construction was commenced and prosecuted with an energy unsurpassed by any work in the South. The means available from these sources being insufficient to complete the work, the State of Alabama subsequently granted additional aid, by a loan of $2,000,000
2074 of its bonds, to be secured by a first mortgage on the lands of the company, and a second mortgage upon the road, and required the completion of the road by the first of March, 1870. The time allowed for the completion of the work being so short, and the additional aid being still insufficient to complete the entire work as a first-class road, about five miles of temporary trestle-work was constructed, of the most perishable timber, where, for the most part, permanent embankments should have been made; and at intervals for about 14 miles north of Tuscaloosa, a temporary track, with heavy grades and sharp curves, was used to fit the irregularities of the ground. There is no doubt that, with sufficient means and longer time, permanent embankments
2075 and grades and curves uniform with the balance of the road would have been used, making it a first-class road throughout its whole length.

Soon after its completion, the property was taken possession of by the State of Alabama, because of the failure to pay the interest on its bonds, then afterwards by the assignees in bankruptcy, and has since been run without any material expenditure for either the construction of more permanent work, or to maintain the property in good order. Under this state of affairs, therefore, depreciation from the decay of materials and the wear and tear of rolling-stock and rails has steadily progressed.

The timber in the wooden culverts between Meridian and York is in the last stages of decay; the temporary trestles will require re-
2076 building within one year; and the permanent bridges and trestles and cross-ties must be renewed within three years. This will be indispensable to running the trains. It is proper, therefore, in this connection, to consider to what extent this may be done from the earnings of the road.

I have been unable to obtain any satisfactory reports or other data in relation to the earnings or expenses of operating the road from its completion to November, 1870, when it was taken possession of by the receivers under the decree of Justice Bradley. The books of these receivers show the following earnings and expenditures for the year ending 30th October, 1873:

1872.	Earnings.	Expenses.
November	$24,024 36	$90,319 83
December	23,984 53	61,696 90
2077 1873.		
January	$33,157 90	$127,032 57
February	22,279 79	60,459 56
March	22,308 61	81,343 75
April	20,077 56	107,098 79
May	17,378 74	31,146 98
June	10,136 85	14,387 26
July	12,281 35	13,061 19
August	14,207 50	12,906 34
September	16,665 23	456,124 73
October	16,081 54	28,294 00
Totals	$232,583 96	$1,083,851 90

Earnings $788.00 per mile per annum.

This shows an expenditure of $851,267.94 more than the earnings. A portion of this was doubtless due to expenditures for construction, which cannot now be separated from the legitimate expenses of operating the road. An effort was made in the months of August, September, and October to make the work self-sustaining, without, how-
2078 ever, providing for depreciation or wear and tear; yet the figures show that the earnings cannot be relied upon either to place the work in proper condition or to keep it in operation for any great length of time. This very small business is due, in some measure, to the want of confidence in the safety of the road, and the doubt as to how long it may be run. The through business has been forced by other more circuitous and expensive routes, and the local is confined to the absolute necessities of those dependent entirely upon the road. Notwithstanding these small earnings, the conclusion is inevitable that there either is not the population and production of necessity tributary to the road, or that there are other channels by which the business is done.

2079 And the question arises in this connection as to the cost of finishing the road and putting it in condition to properly develop and perform the business; and if this be done, what capital it will carry? In either case—whether the property be valuable or not—those interested should be fully advised; and it is doing gross injustice to them and the people along the line to continue to operate as it has been since it passed from the company's control.

The cost of completing the road is as follows:

The approximate cost of filling up trestles where practicable, rebuilding permanent ones or stone culverts	$250,000
Grading, masonry, and for permanent track, north of Tuscaloosa	75,000
2080 Extending road from Wauhatchie with Chattanooga	250,000
Other expenses for widening cuts, drainage, ballasting, &c	150,000
Expenditures required to finish the road and place it in first-class condition	$625,000

In addition to this, as the business increases more rolling-stock will be required; the repair-shops must be rebuilt and furnished with more tools, and iron bridges constructed over the Bigby, Warrior, and other

large streams. The amount required to complete the road as a first-class road, with capacity to perform a business equal to the average earnings of southern roads, will be about $1,500,000.

It is proper to say that permanent can be substituted for the temporary trestles at about one-half the above estimated cost; that
2081 the temporary track may be *be* worked by additional motive power for some time; that the track of the Nashville and Chattanooga may be used and the cost of widening cuts, &c., may be divided into two or three years; but these expenditures are all required to place the road in first-class condition to compete with other railways for through business.

It is useless to inquire into the cost of the road, but speculations upon its value as a railway may be interesting.

The amount of business which a railway may develop can only be estimated from the experience of other railways. As a general rule, however, the earnings of railways in the Southern States is about
2082 $4.35 for each inhabitant, while the respective amounts for the New England States is $10.63; Middle States, $14.56; Western States, $6.73; and Pacific States, $10.16. This difference may be explained by the greater value of the Southern productions and the sparseness of the population. The product of the labor from one person in the cultivation of cotton may be stated at about one ton, valued at $375, and the amount paid for its transportation a given distance about $10, and the transportation of the return-supplies at about the same amount, or about $20 the carrier receives annually from each inhabitant. The value of the product in mining coal or iron is about $600, (weight 300 tons,) from which the carrier will receive for the same distance
2083 $120, and the return-supplies will be quite equal to that required for the laborer in cotton. It is, therefore, apparent that the productions of coal and iron pay the railways nearly six times the amount of the more valuable cotton. This explains, too, why the cheaper productions of corn and wheat of the West pay for transportation so much less than the minerals of the Middle and Northern States, and yet at the same time nearly 50 per cent. greater than the productions of the Southern States.

The average gross earnings of southern roads is about $4,350 per mile, of which about one-third is from passengers, and the other two-thirds from freights, while in the Middle States they are $14,595, and in the Western States, $6,735 per mile. The proportions,
2084 in the two latter being one-fourth from the passengers and three-fourths from freight. At the charges generally made in the South, a completed and well-built and equipped railway, earning $4,000 per mile per annum, can carry a capital of $18,000 per mile. With less earnings the expenses bear an increasing, and with larger earnings a decreasing proportion, because the cost for many of the items is not affected by the volume of business. About thirty per cent. of the expense of operating southern railways results from the decay of materials, superintendence, &c., which are not materially increased by a larger business.

While the statistical information derived from the U. S. cen-
2085 sus and other sources is not sufficient to determine with accuracy the proportion of population to the capital a railway will carry, yet, as a safe empirical rule, where the population exceeds ten to the square mile, a railway will carry one thousand dollars of interest-bearing capital per mile of road for each inhabitant per square mile. Many causes may operate to create exceptions, but the general average of the railroads of the world will not vary materially from this rule.

These remarks are very pertinent in considering the development of *of* the industrial pursuits on the Alabama and Chattanooga Railroad.

From Meridian to Tuscaloosa, 98 miles, this road passes through a country where cotton is the principal production. This
2086 country has been long in cultivation, and formerly was considered wealthy and prosperous, but under the present system of labor more than one-half of the land has been abandoned; and there is now a large emigration from it to the more fertile lands of the Mississippi Valley, and therefore, no material increase can be expected in production.

Near Tuscaloosa, the road cuts through the southeastern corner of the Warrior coal-fields, probably the most extensive formation of bituminous coal on this continent. A little farther north the rich brown and red hematite iron-ores are found; and thence to Chattanooga, about 175 miles, there is found in the hills, on one side of the valley
2087 through which the road runs, almost a continuous vein of iron ore, and on the other a like continuous vein of coal of the Warrior, Cahaba, or Coosa formation. In no part of the continent has nature been so prolific of those useful mineral resources which attract population, build manufactories, and create national wealth. The climate is salubrious, the valleys are rich, and capable of supporting a dense population, and nothing is wanting except capital and labor to make it equal to the populous and flourishing valleys of Pennsylvania. But little has been accomplished in the development of these minerals, because capitalists, proverbially timid, have been unwilling to
2088 make investments, the value of which would depend upon transportation by a railroad in whose responsibility, or probability of permanent operations not the slightest confidence could be placed. And this state of affairs will continue until the Alabama and Chattanooga Railroad is put in first class-order, and operated with intelligence, which alone can command the public confidence. When this is done the work will develop the advantages which nature has so lavishly bestowed, in the way marked out for its construction, and the resources which capital is invited to use.

The census of 1870 shows that the population of the countries
2089 through which it runs, and which are tributary to it, is about 150,000. Referring to the average rate paid by each inhabitant, the earnings should have been $2,210; but they were only $788 per mile per annum. Assuming that this latter was derived entirely from local business, and that when the road shall have been finished and fully equipped, its through business will equal that of the Mobile and Montgomery road last year, (which was $1,750 per mile per annum,) it would make the earnings from through and local business about $2,538 per mile.

It is therefore evident that the road has not at present the
2090 population or production to give it more than half the average earnings of southern roads, and its future depends upon the development of its mineral resources.

As a link in the through lines its present connections give it commanding position. It connects at Chattanooga with the lines from the northern and eastern Atlantic cities and with the roads to Memphis and St. Louis; at Birmingham with the North and South road for Montgomery and Louisville; at York with the Selma and Meridian Railroad, and at Meridian with the Mobile and Ohio and Vicksburg and Meridian Railroads. This gives it at Meridian two routes to New Orleans
2091 and one to Mobile, and another with the Southern Pacific on the

completion of that road, and at Chattanooga with the roads leading east, north, and west, and will, on the completion of the Cincinnati Southern, be the most direct route between the North and South.

But the Alabama and Chattanooga Railway possesses great mineral resources, the development of which will, when finished and properly equipped, doubtless produce a much greater earning-power than the average of the southern roads. As before stated, the cheaper the productions the larger the proportion of their value is paid for transportation and handling. Gold or cotton, neither directly or in-
2092 cidentally, ever built cities or furnished sufficient transportation to support the cheapest railway in America; but wherever coal or iron is the principal article of transportation the railways have always proved valuable investments. The conclusion is, therefore, that the Alabama and Chattanooga Railroad will yield no return upon the investment until completed and equipped as a first-class railway, and a sufficient time thereafter has elapsed to develop its mineral wealth and confidence is restored in its permanent operation.

Very respectfully.

L. J. FLEMING,
Gen'l Supt.

2093 EXHIBIT E.

Length and location of side tracks.

Length, feet.	Location.
15,711	Chattanooga.
350	Wildwood.
574	Morganville.
904	Trenton.
542	Green Pond.
1,020	Woodstock.
600	Bibbville.
586	Vance's.
1,106	Rising Fawn.
506	Cloverdale.
532	Sulphur Springs.
1,180	Valley Head.
545	Haralson's.
300	Hendrix.
1,670	Fort Payne.
958	Brandon's.
875	Pottersville.
934	Collinsville.
1,140	Greenwood.
700	Reese's.
2,246	Attala.
2094 934	Steele's.
1,012	Ashville.
175	Johnson's Switch.
1,731	Springville.
635	Trussville.
797	Irondale.
1,955	Birmingham.
800	Elyton.
677	Jonesboro'.
336	Thomas' Switch.

440		Smallwood.
450		Clement's.
320		Brown's Tank.
629		Kennedale.
1,036		Tuscaloosa.
384		Maxwell's.
660		Hull's.
125		Pile Driver.
595		Carthage.
349		Battle's Crossing.
560		Stewart's.
460		Akron.
1,555		Eutaw.
600		Haysville.
648		Boligee.
	784	Eppes.
2095	565	Brown's Cut.
	948	Livingston.
1,237		York.
660		Cuba.
1,364		Toomsuba.
5,980		Meridian.

Number and location of frogs on A. & C. R. R.

Number.		Location.
11		Chattanooga.
2		Wildwood.
2		Morgansville.
2		Trenton.
2		Rising Fawn.
2		Valley Head.
2		Fort Payne.
2		Brandon's.
1		Haralson's.
1		Hendrix.
2		Greenwood.
1		Reese's.
	4	Attala.
2096	2	Ashville.
	1	Johnson's Switch.
2		Springville.
1		Trussville.
1		Bibbville.
1		Vance's.
1		Smallwood.
1		Clement's.
1		Brown's Tank.
1		Kennedale.
3		Tuscaloosa.
1		Maxwell's.
1		Hull's.
1		Pile-driver.
1		Carthage.
1		Battle's Crossing.
1		Stewart's.

1.....Akron.
2.....Eutaw.
1.....Haysville.
1.....Boligee.
2.....Eppes.
2.....Irondale.
4.....Birmingham.
1.....Elyton.
1.....Jonesboro'.
2097 1.....Thomas' Switch.
1.....Green Pond.
2.....Woodstock.
1.....Brown's Cut.
2.....Livingston.
3.....York.
1.....Cuba.
2.....Toomsuba.
11.....Meridian.

Bridges on A. & C. R. R., and their condition.

No.	Feet. L.	Av. ht.	Condition.	Kind.	Where situated.
1	153	23 ft.	Good.....	Howe.....	Between 20 and 21 mile posts.
2	109	19 "	"	"	" 20 " 25 " "
3	110	18 "	"	"	" 25 " 26 " "
4	110	17 "	"	"	" 27 " 28 " "
5	110	13 "	"	"	" 27 " 28 " "
6	84	15 "	"	"	" 28 " 29 " "
7	86	24 "	"	"	" 28 " 29 " "
8	110	9 "	"	Beam.....	" 31 " 32 " "
9	70	9 "	"	Howe.....	" 32 " 33 " "
10	195	20 "	"	"	" 88 " 89 " "
11	84	12 "	"	"	" 92 " 93 " "
2098 12	85	11 ft.	Good.....	Howe.....	At 99 mile post.
13	138	18 "	"	"	Between 108 and 109 mile posts.
14	110	14 "	"	"	" 128 " 129 " "
15	47	33 "	"	Beam.....	At Kennedale.
16	.....	"	"	"	At 210-mile post.
17	530	63 "	"	Howe.....	At Warrior.
18	60	9 "	"	Beam.....	Between 138 and 139 " "
19	48	11 "	"	"	" 246 " 247 " "
20	675	65 "	"	Howe.....	At Tombigbee.
21	40	35 "	"	Beam.....	Between 251 and 252 " "
22	200	32 "	"	"	" 259 " 260 " "
23	50	15 "	"	"	" 260 " 261 " "
24	40	12 "	"	"	" 262 " 263 " "
25	30	10 "	"	"	" 264 " 265 " "
26	30	10 "	"	"	" 265 " 266 " "
27	30	9 "	"	"	" 270 " 271 " "
28	30	8 "	"	"	" 270 " 271 " "

2099 *Trestles on line of A. & C. R. R., and condition.*

Length, feet.	Cond'n.	Av. ht.	Location, between—	Character.
390 ft.	.....	29 ft.	Mile-posts 8 and 9	Permanent.
553 "	.....	18 "	" " 12 " 13	"
338 "	.....	16 "	At mile-post 13	"
136 "	.....	8 "	Mile-posts 13 and 14	"
40 "	.....	12 "	" " 17 " 18	"
853 "	.....	20 "	" " 19 " 20	"
85 "	.....	9 "	" " 35 " 36	"
152 "	.....	11 "	" " 102 " 103	Temporary.
90 "	.....	7 "	At mile-post 103	"
84 "	.....	8 "	Mile-posts 113 and 114	Permanent.
100 "	.....	10 "	" " 116 " 117	"
178 "	.....	10 "	" " 117 " 118	"
120 "	.....	9 "	" " 128 " 129	Temporary.
80 "	.....	13 "	" " 131 " 132	Permanent.
1,500 "	.....	36 "	At mile-post 38	Temporary.
388 "	.....	13 "	Mile-posts 168 and 169	Permanent.
356 "	.....	12 "	" " 171 " 172	Temporary.
200 "	.....	22 "	" " 173 " 174	"
208 "	.....	8 "	" " 174 " 175	"
83 "	.....	9 "	" " 181 " 182	"
143 "	.....	8 "	" " 182 " 183	"
90 "	.....	6 "	" " 182 " 183	"
159 "	.....	15 "	" " 187 " 188	"
2100 141 ft.	.....	13 ft.	Mile-posts 189 and 190	Temporary.
133 "	.....	30 "	" " 189 " 190	"
328 "	.....	33 "	At Kennedale	Permanent.
94 "	.....	32 "	Mile-posts 191 and 192	Temporary.
188 "	Good	6 "	" " 199 " 200	"
135 "	"	11 "	" " 200 " 201	"
200 "	"	10 "	" " 201 " 202	"
400 "	Bad	12 "	" " 201 " 202	"
1,333 "	Good	12 "	" " 202 " 203	"
629 "	Bad	13 "	" " 203 " 204	"
820 "	"	16 "	" " 203 " 204	"
84 "	"	12 "	" " 204 " 205	"
566 "	"	19 "	" " 205 " 206	"
700 "	"	33 "	" " 205 " 206	"
400 "	"	50 "	" " 206 " 207	"
175 "	"	25 "	" " 207 " 208	"
123 "	"	16 "	" " 207 " 208	"
392 "	Very bad..	35 "	" " 208 " 209	"
188 "	Bad	17 "	At mile-post 210	"
1,169 "	"	14 "	Mile-posts 210 and 211	"
88 "	"	15 "	" " 211 " 212	"
562 "	"	11 "	" " 211 " 212	"
310 "	"	20 "	" " 211 " 212	"
93 "	"	15 "	" " 212 " 213	"
153 "	Good	10 "	" " 212 " 213	"
2101 1,432 ft.	Good	9 ft.	Mile-posts 215 and 216	Temporary.
135 "	"	13 "	" " 215 " 216	"
625 "	"	6 "	" " 216 " 117	"
397 "	"	7 "	" " 217 " 218	"
597 "	"	5 "	" " 218 " 219	"
630 "	"	6 "	" " 219 " 220	"
1,620 "	"	12 "	" " 221 " 223	"
850 "	"	10 "	" " 224 " 225	"
1,850 "	"	10 "	" " 225 " 226	"
560 "	"	9 "	" " 226 " 227	"
1,416 "	Bad	25 "	Warrior	"
85 "	Good	12 "	Mile-posts 234 and 235	"
50 "	"	10 "	" " 234 " 235	"
84 "	"	9 "	" " 236 " 237	"

	1	Akron.
	2	Eutaw.
	1	Haysville.
	1	Boligee.
	2	Eppes.
	2	Irondale.
	4	Birmingham.
	1	Elyton.
	1	Jonesboro'.
2097	1	Thomas' Switch.
	1	Green Pond.
	2	Woodstock.
	1	Brown's Cut.
	2	Livingston.
	3	York.
	1	Cuba.
	2	Toomsuba.
	11	Meridian.

Bridges on A. & C. R. R., and their condition.

No.	Feet. L.	Av. ht.	Condition.	Kind.	Where situated.
1	153	23 ft.	Good	Howe	Between 20 and 21 mile posts.
2	109	19 "	"	"	" 20 " 25 " "
3	110	18 "	"	"	" 25 " 26 " "
4	110	17 "	"	"	" 27 " 28 " "
5	110	13 "	"	"	" 27 " 28 " "
6	84	15 "	"	"	" 28 " 29 " "
7	86	24 "	"	"	" 28 " 29 " "
8	110	9 "	"	Beam	" 31 " 32 " "
9	70	9 "	"	Howe	" 32 " 33 " "
10	195	20 "	"	"	" 88 " 89 " "
11	84	12 "	"	"	" 92 " 93 " "
2098 12	85	11 ft.	Good	Howe	At 99 mile post.
13	138	18 "	"	"	Between 108 and 109 mile posts.
14	110	14 "	"	"	" 128 " 129 " "
15	47	33 "	"	Beam	At Kennedale.
16	------	"	"	"	At 210-mile post.
17	530	63 "	"	Howe	At Warrior.
18	60	9 "	"	Beam	Between 138 and 139 " "
19	48	11 "	"	"	" 246 " 247 " "
20	675	65 "	"	Howe	At Tombigbee.
21	40	35 "	"	Beam	Between 251 and 252 " "
22	200	32 "	"	"	" 259 " 260 " "
23	50	15 "	"	"	" 260 " 261 " "
24	40	12 "	"	"	" 262 " 263 " "
25	30	10 "	"	"	" 264 " 265 " "
26	30	10 "	"	"	" 265 " 266 " "
27	30	9 "	"	"	" 270 " 271 " "
28	30	8 "	"	"	" 270 " 271 " "

2099 *Trestles on line of A. & C. R. R., and condition.*

	Length, feet.	Cond'n.	Av. ht.	Location, between—	Character.
	390 ft.	.....	29 ft.	Mile-posts 8 and 9.....	Permanent.
	553 "	.....	18 "	" " 12 " 13.....	"
	338 "	.....	16 "	At mile-post 13.....	"
	136 "	.....	8 "	Mile-posts 13 and 14.....	"
	40 "	.....	12 "	" " 17 " 18.....	"
	853 "	.....	20 "	" " 19 " 20.....	"
	85 "	.....	9 "	" " 35 " 36.....	"
	152 "	.....	11 "	" " 102 " 103.....	Temporary.
	90 "	.....	7 "	At mile-post 103.....	"
	84 "	.....	8 "	Mile-posts 113 and 114.....	Permanent.
	100 "	.....	10 "	" " 116 " 117.....	"
	178 "	.....	10 "	" " 117 " 118.....	"
	120 "	.....	9 "	" " 128 " 129.....	Temporary.
	80 "	.....	13 "	" " 131 " 132.....	Permanent.
	1,500 "	.....	36 "	At mile-post 38.....	Temporary.
	388 "	.....	13 "	Mile-posts 168 and 169.....	Permanent.
	356 "	.....	12 "	" " 171 " 172.....	Temporary.
	200 "	.....	22 "	" " 173 " 174.....	"
	208 "	.....	8 "	" " 174 " 175.....	"
	83 "	.....	9 "	" " 181 " 182.....	"
	143 "	.....	8 "	" " 182 " 183.....	"
	90 "	.....	6 "	" " 182 " 183.....	"
	159 "	.....	15 "	" " 187 " 188.....	"
2100	141 ft.	.....	13 ft.	Mile-posts 189 and 190.....	Temporary.
	133 "	.....	30 "	" " 189 " 190.....	"
	328 "	.....	33 "	At Kennedale.....	Permanent.
	94 "	.....	32 "	Mile-posts 191 and 192.....	Temporary.
	188 "	Good.....	6 "	" " 199 " 200.....	"
	135 "	"	11 "	" " 200 " 201	"
	200 "	"	10 "	" " 201 " 202.....	"
	400 "	Bad.....	12 "	" " 201 " 202.....	"
	1,333 "	Good	12 "	" " 202 " 203.....	"
	629 "	Bad	13 "	" " 203 " 204.....	"
	820 "	"	16 "	" " 203 " 204.....	"
	84 "	"	12 "	" " 204 " 205.....	"
	566 "	"	19 "	" " 205 " 206.....	"
	700 "	"	33 "	" " 205 " 206.....	"
	400 "	"	50 "	" " 206 " 207.....	"
	175 "	"	25 "	" " 207 " 208.....	"
	123 "	"	16 "	" " 207 " 208.....	"
	392 "	Very bad..	35 "	" " 208 " 209.....	"
	188 "	Bad	17 "	At mile-post 210.....	"
	1,169 "	"	14 "	Mile-posts 210 and 211.....	"
	88 "	"	15 "	" " 211 " 212.....	"
	562 "	"	11 "	" " 211 " 212.....	"
	310 "	"	20 "	" " 211 " 212.....	"
	93 "	"	15 "	" " 212 " 213.....	"
	153 "	Good	10 "	" " 212 " 213.....	"
2101	1,432 ft.	Good	9 ft.	Mile-posts 215 and 216.....	Temporary.
	135 "	"	13 "	" " 215 " 216.....	"
	625 "	"	6 "	" " 216 " 117.....	"
	397 "	"	7 "	" " 217 " 218.....	"
	597 "	"	5 "	" " 218 " 219.....	"
	630 "	"	6 "	" " 219 " 220.....	"
	1,620 "	"	12 "	" " 221 " 223.....	"
	850 "	"	10 "	" " 224 " 225.....	"
	1,860 "	"	10 "	" " 225 " 226.....	"
	560 "	"	9 "	" " 226 " 227.....	"
	1,416 "	Bad.....	25 "	Warrior.....	"
	85 "	Good	12 "	Mile-posts 234 and 235.....	"
	50 "	"	10 "	" " 234 " 235.....	"
	84 "	"	9 "	" " 236 " 237.....	"

Length, feet.	Cond'n.	Av. ht.	Location, between—	Character.
75 ft.	Good	8 ft.	Mile-posts 236 and 237.....	Temporary.
60 "	"	8 "	" " 237 " 238.....	Permanent.
50 "	"	5 "	" " 237 " 238.....	"
285 "	"	10 "	" " 240 " 241.....	"
40 "	"	8 "	" " 240 " 241.....	"
804 "	"	10 "	" " 245 " 246.....	"
1,080 "	"	12 "	" " 246 " 247.....	"
1,356 "	"	14 "	" " 246 " 247.....	"
720 "	"	11 "	" " 246 " 247.....	"
1,020 "	"	13 "	" " 247 " 248.....	"
102 3,456 ft.	Very bad...	21 ft.	Bigbee	Permanent.
615 "	Good	30 "	Mile-posts 251 and 252.....	"
110 "	"	15 "	" " 252 " 253.....	"
84 "	"	10 "	" " 257 " 258.....	"
131 "	"	8 "	" " 259 " 260.....	"
732 "	"	15 "	At mile-post 260.....	"
60 "	"	13 "	Mile-posts 261 and 262.....	"
84 "	"	10 "	" " 264 " 265.....	"
156 "	"	9 "	" " 266 " 267.....	"
192 "	"	11 "	" " 266 " 267.....	"
1,296 "	"	16 "	" " 275 " 276.....	"
160	.....	8 "	" " 282 " 283.....	"
76	.....	6 "	.....	"
38	.....	9 "	.....	"
53	.....	9 "	.....	"
76	.....	19 "	.....	"
67	.....	22 "	.....	"
49	.....	22 "	.....	"
207	.....	10 "	.....	"
106	.....	13 "	.....	"
38	.....	10 "	.....	"
66	.....	10 "	.....	"
102	.....	19 "	.....	"
53	.....	9 "	.....	"
2103 180	.....	34 ft.	.....	Permanent.
174	.....	19 "	.....	"
100	.....	14 "	.....	"

Cross-ties on line of A. and C. R. R.

No.	Location.
245	Between mile-posts 19 and 20.
503	" " " 22 " 23.
206	" " " 26 " 27.
190	" " " 27 " 28.
184	" " " 28 " 29.
765	" " " 29 " 30.
856	At Sulphur Springs.
542	Between mile-posts 31 and 32.
301	" " " 32 " 33.
770	" " " 33 " 34.
328	" " " 34 " 35.
290	" " " 35 " 36.
65	" " " 36 " 37.
95	" " " 37 " 38.
51	" " " 40 " 41.
2104 50	At mile-post 114.
1327	Between mile-posts 44 and 45.
855	At Brandon.
3157	Between mile-posts 48 and 49.

Crossties on line of A. and C. R. R.—Continued.

No.	Location.
114	Between mile-posts 50 and 51.
1742	" " " 51 " 52.
940	" " " 53 " 54.
121	" " " 57 " 58.
254	" " " 58 " 59.
57	" " " 59 " 60.
120	At Portersville.
184	Between mile-posts 61 and 62.
2123	" " " 62 " 63.
717	" " " 63 " 64.
471	" " " 64 " 65.
33	" " " 66 " 67.
335	" " " 67 " 68.
204	" " " 68 " 69.
103	" " " 69 " 70.
112	" " " 76 " 77.
80	" " " 80 " 81.
150	" " " 104 " 105.
91	" " " 105 " 106.
279	" " " 107 " 108.
2105 125	Between mile-posts 128 and 129.
75	" " " 131 " 132.
60	" " " 141 " 142.
50	" " " 149 " 150.
29	" " " 187 " 188.
189	" " " 188 " 189.

Wood on line Alabama and Chattanooga Railroad.

Cords.	Location between miles.
4	Between mile-posts 22 and 23.
6½	At " " 23.
10	Between " " 27 " 28.
6½	" " " 28 " 29.
3	" " " 30 " 31.
5	" " " 31 " 32.
1	" " " 33 " 34.
8	" " " 36 " 37.
2½	" " " 38 " 39.
137	" " " 38 " 39.
6	" " " 39 " 40.
25	" " " 40 " 41.
2½	At " " 41.
2106 70	Between mile-posts 49 and 50.
8	" " " 51 " 52.
3	" " " 52 " 53.
12½	" " " 90 " 91.
5	" " " 92 " 93.
3	" " " 94 " 95.
4	" " " 96 " 97.
3	" " " 100 " 101.
25	At 107.
9	Between " " 107 " 108.
39	" " " 110 " 111.
200	At " " 130.
16	At Clement's.
2	Between mile-posts 217 and 218.
60	" " " 261 " 262.

Square timber, dimensions, and where located.

No. pieces.	Dimensions.	Where located.
2	12 by 14 inches by 12 feet	At 69-mile post.
2	12 " 14 " " 10 "	" " " "
3	12 " 14 " " 10 "	" " " "
7	12 " 12 " " 8 "	" " " "
2	12 " 12 " " 20 "	" " " "
2107 1	12 by 12 inches by 30 ft	Bet. 106 and 107 mile post'.
4	11 " 14 " " 8 "	" 179 " 180 " "
5	12 " 14 " " 20 "	" " " " " "
3	12 " 12 " " 39 "	" " " " " "
1	13 " 13 " " 40 "	" " " " " "
5	12 " 12 " " 40 "	" " " " " "
1	12 " 12 " " 25 "	" " " " " "
105	12 " 12 " " 40 "	" 180 " 181 " "
33	12 " 12 " " 40 "	" 181 " 182 " "
14	12 " 12 " " 15 "	" 182 " 183 " "
63	42 " 12 " " 40 "	" " " " " "
8	10 " 12 " " 15 "	" 203 " 204 " "
6	10 " 12 " " 25 "	" " " " " "
36	12 " 12 " " 40 "	" 210 " 211 " "
22	12 " 12 " " 40 "	" " " " " "

Length and locations of platforms.

Length, feet.	Location.
545	Chattanooga.
240	Trenton.
50	Rising Fawn.
93	Cloverdale.
50	Sulphur Springs.
2108 229	Valley Head.
89	Fort Payne.
175	Portersville.
205	Collinsville.
65	Greenwood.
80	Reese's.
240	Attala.
60	Steele's.
60	Ashville.
485	Birmingham.
246	Elyton.
30	Green Pond.
20	Bibbville.
41	Smallwood.
74	Tuscaloosa.
112	Eutaw.
176	Epps.
363	Livingston.

2109 *Turn-tables.*

Number.	Where at.
1	Chattanooga.
1	Attala.
1	Birmingham.
1	Tuscaloosa.
1	Eutaw.
1	Meridian.

Round-houses.

Number.	Where at.
1	Chattanooga, (11 stalls.)
1	Attala, (7 stalls.)

Filed January 15th, A. D. 1874.

N. W. TRIMBLE,
Clerk, &c.

2110 *Decree.*

In the circuit court of the United States for the fifth judicial circuit and southern district of Alabama. In equity.

DANIEL N. STANTON, FRANCIS B. LOOMIS, AND John C. Stanton, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company, complainants,
against
THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, Daniel N. Stanton, trustees, &c., and Charles B. Wallace and others, defendants.

This cause coming on to be heard on the 23rd day of January, one thousand eight hundred and seventy-four, on the bill of complaint of the complainants and answers of Robert B. Lindsey, W. T. Wof-
2111 ford, Charles Walsh, and the Mobile and Ohio Railroad Company and Charles B. Wallace, and the replication thereof, and the cross-bill of said Charles B. Wallace, and said cross-bill having been taken pro confesso against all the defendants thereto, and the bill of complaint having been taken pro confesso against all the other defendants, and after hearing counsel for the complainants and for the defendant Charles B. Wallace, an owner of second-mortgage bonds, who brings his cross-bill for himself and all others like situated, and no opposition being made by any other party in interest in the subject-matter of this action, the court, being fully advised in the premises, doth find:

That the Alabama and Chattanooga Railroad Company is a corporation created by and existing under certain laws of the State of
2112 Alabama. That the State of Tennessee granted corporate pow-

ers and privileges to the said corporation, as did also the States of Mississippi and Georgia. And the court doth further find that the said States of Tennessee, Mississippi, and Georgia made the said corporation, known as aforesaid as "The Alabama and Chattanooga Railroad Company," as organized and conducted in said State of Alabama, a corporation, each of its own, and said corporation became a single and the same corporation, though existing in and holding property in different States, and its property held under the mortgage hereinafter mentioned is held by and under said mortgage as an entirety. And the court doth further find that on or about the 19th day of December, in the year
2113 1868, the said The Alabama and Chattanooga Railroad Company executed and delivered to Seth Adams, Francis Dane, and John Demerett, as trustees upon the trust therein specified, their certain instrument known as the first-mortgage and trust deed of the Alabama and Chattanooga Railroad Company, to secure the issue of a large amount of the bonds of said company, issued for the purpose of raising funds for the completion and construction and equipment of the railway of said company; that said bonds were each for the payment of the sum of one thousand dollars, payable on the first day January, 1889, with interest at the rate of eight per centum per annum, payable semi-annually, on the first day January and July in each year.

2114 And the court doth further find that subsequently the said Seth Adams, Francis Dane, and John Demeritt resigned their positions and office as trustees under said mortgage or deed of trust, and Francis B. Loomis, John C. Stanton, and Daniel N. Stanton, the complainants herein, were duly appointed such trustees, and, in accordance with the terms of said mortgage or deed of trust, became invested with all the interest, estate, power, and authority in the premises, and subject to the same obligations given and granted to said original trustees.

And the court doth further find that the said mortgage or deed of trust, and the bonds bona-fide issued under and secured thereby, constituted, were, and are, except as hereinafter recited, a first and
2115 paramount lien over and above any and all liens whatever on all and singular the entire railroad of the said The Alabama and Chattanooga Railroad Company lying, being, and extending from its terminus at Chattanooga, in the State of Tennessee, to and through Dade County, in the State of Georgia, to the State of Alabama, and through the State of Alabama in a general southwesterly direction, passing through the town of York, in said State, to the State-line of Mississippi, and thence to its terminus at Meridian, in said Mississippi, with all its franchises, equipments, property, tolls, issues, and profits, and all its lands, tenements, buildings, fixtures, machinery, goods, and chattels connected with or used in the using and operating of
2116 said railway or appertenant thereto, and all its rails, ties, fuel, fencing, and erections, and all its right of way and easements, and all cars, engines, and tools, and all rents, reservations, and reversions of every nature and kind whatever, including all the property between said terminal points, which the said The Alabama and Chattanooga Railroad Company owned or possessed at the date of said mortgage or did thereafter acquire, either in law or equity, of every kind whatever purtenant thereto; also all other like estate, structures, superstructures, and equipments, and matters and things pertaining or belonging to all or any of the same that were thereafter acquired, constructed, or controlled by or belonged to the said The Alabama
2117 and Chattanooga Railroad Company; and also all other estate,

real, personal, or mixed, of any of the foregoing descriptions, or of any other kind, which were thereafter acquired by the said The Alabama and Chattanooga Railroad Company, and used or intended to be used in the construction and operation of the said railroad, not including and specially excepting from the operation of this decree any railroad lying outside of the aforesaid line of railroad and termini, and which the said The Alabama and Chattanooga Railroad Company may have, after the execution of said mortgage, acquired, and any property purchased with or exclusively used in connection with the same, or the tolls and profits derived therefrom; and likewise excepting any
2118 lands which the said The Alabama and Chattanooga Railroad Company owned at the date of said mortgage or thereafter acquired, and which are not necessary for the management or operation of said railway or the repairs thereof, or for the business of said railroad company.

And this court doth further find that heretofore an order was made in this cause by the honorable Joseph P. Bradley, associate justice of the Supreme Court of the United States, bearing date August 26th, 1872, appointing receivers of the above-mentioned property, in and by which said order said receivers were authorized to raise money by loan or to advance monies themselves, to put said railroad and other property in repair, and to complete any incompleted portions thereof,
2119 and to procure rolling-stock, machinery, and other necessary things for operating the same, and to operate the same to the best advantage, so as to prevent the said property from further deteriorating, and to save and preserve the same for the benefit and interest of the holders of the bonds hereinbefore mentioned, and all others having an interest therein.

And this court doth further find that all monies which have been raised by said receivers by loan, or which may have been advanced by them for the purposes aforesaid, and which shall be ascertained by the decretal orders of this court to have been expended or which may be expended for the purposes contemplated by and in accordance with the said or-
2120 ders of this court, not exceeding the sum of one million two hundred thousand dollars, shall be a first lien, prior to all others, on the said railroad and other property, and to be paid before the said first-mortgage bonds out of the proceeds of said property, and nothing in this decree shall in any way conflict with the terms of the said order of said honorable Joseph P. Bradley, dated August 26th, 1872, or the amendment to the said order under date of September 30th, 1873, or which shall impair the claims and rights of the creditors of the receivers appointed under either of said orders, or the owners of certificates issued by said receivers under said orders, or the holders of the said certificates under hypothecation to the extent of money
2121 loaned and advanced on the same for the purposes aforesaid, with interest and expense added thereto; and to the end that the provisions of said orders above recited may be fully carried out according to the intent thereof, it is by this court ordered that Joseph W. Burke, esquire, be appointed a master commissioner to hear and report to this court, in detail and systematically, all liabilities which have been incurred and advances which have been made by said receivers or their successors, or either of them, in accordance with said orders, and that the various reports which have been from time to time made by the present or late receivers in this cause be referred to said master for
2122 examination, and for the further order of this court.

And this court doth further find that the said mortgage was duly recorded according to the laws of the various States in which said railroad and property is situated, and that there were issued and sold to bona-fide holders a large amount of said bonds; that a balance still remains due and unpaid on certain of the interest warrants and coupons which fell due and were payable prior to July, 1872, on said bonds; that the coupons or interest warrants on all of said bonds have been in default and passed due since and including that which fell due on the first day of July, 1872, and still remain in default and unpaid,
2123 and that demand has been duly made by the complainants of the said "The Alabama and Chattanooga Railroad Company" for full payment of all money in default.

And this court doth further find that heretofore, on the 15th day of September, 1871, a petition in bankruptcy was filed in the district court of the United States for the middle district of Alabama against the Alabama and Chattanooga Railroad Company, and such proceedings were had that said company was declared bankrupt on the 6th November, 1871; and such proceedings were thereupon afterwards had that on the 28th day of November, 1871, John F. Bailey, John H. Gindrat, and Samuel B. Jones were appointed assignees of the
2124 property of the said Alabama and Chattanooga Railroad Company from Chattanooga, in the State of Tennessee, through the States of Georgia, Alabama, and Mississippi, to Meridian, in the State of Mississippi, and that subsequently said assignees presented their petition to said district court on the 17th of February, 1872, asking for a sale of the property of said bankrupt, and an order of sale was granted on the 13th March, 1872; and afterwards on the 22nd April, 1872, the property of said bankrupt was sold by said assignees, and the same was purchased by the State of Alabama, subject only to the lien of said first mortgage or deed of trust and the bonds secured thereby, and the unpaid interest warrants or coupons thereon, and unascertained claim of the State of Georgia on a part thereof.

2125 And this court doth further find that the default in the payment of the interest warrants or coupons said bonds has continued for upwards of three months since demand for their payment, without the consent of the holder of such coupon or bond, and that the principal of all of the said bonds secured by said mortgage or deed of trust above mentioned has thereby become due and payable.

And this court doth order, adjudge, and decree that the property of the said "The Alabama and Chattanooga Railroad Company," as before described herein, and in the said mortgage or deed of trust, with all accessions thereto at the time of the sale thereof, be sold in one
2126 entire parcel, as an entirety, under direction of Robert W. Healy and Nathaniel W. Trimble, as master commissioners, at public auction in front of the custom-house, in the city of Mobile, in the State of Alabama, on the first Monday of May, 1874; that the said masters shall give at least sixty days' notice of such time and place of sale, and a full description of the property so to be sold by advertisements thereof in six newspapers published, one in Montgomery, and one in Mobile, in the State of Alabama; one in Chattanooga, in the State of Tennessee; one in the city of Boston, in the State of Massachusetts, and two in the city and State of New York; and said masters may adjourn said sale from time to time, in their discretion, and, if adjourned, may make
2127 such sale in manner aforesaid, without further notice, at the time and place to which it may be so adjourned, and upon the confirmation of such sale by the court and receiving the purchase-money there-

for, the said masters shall convey the same by good and sufficient conveyances to the purchaser or purchasers, and such sale and conveyances so made shall convey all the right, title, estate, interest, and property of the said "The Alabama and Chattanooga Railroad Company" in and to the said railroad, premises, franchises, and property above mentioned and described, to the said purchaser or purchasers in fee-simple forever, and shall be a perpetual bar, both in law and equity, against the said "The Alabama and Chattanooga Railroad Company," and its
2128 successors and assigns, and against all and every person claiming or to claim the said premises, or any part thereof, under them forever, and against each and every the defendants to this action, and the said defendants shall be forever foreclosed from all equity of redemption in said premises, and every part of the same.

It is further ordered, adjudged, and decreed that any purchase made of said mortgaged property at said sale by the complainants in the original bill should be in trust for the bona-fide holders of bonds, and any like purchase made by the trustees of said second mortgages shall be in trust for the benefit of the bona-fide holders of the said second-mortgage bonds.

2129 And this court doth further order, adjudge, and decree that the proceeds which may be made to arise from the sale of the said mortgaged premises, and which have arisen or shall arise in the hands of the receivers from the prosecution of the business of said company in the operation of its road, or which have arisen or may arise from any other source whatever from said property, are in law and equity held and bound and liable to be applied in the order following:

First. To the payment of the necessary expenses incident to the execution and due preservation of the trust created in behalf of the plaintiffs in this suit by the said mortgage, of which they are trustees, including a reasonable compensation for their own services. All legal
2130 costs and such compensation to the solicitors and counsel of the complainants for their professional services in this cause and reasonable compensation to such solicitors and attorneys as the receivers may have properly employed in any matter connected with the discharge of their duties as receivers, and a reasonable compensation to said receivers for their own services; to pay all legal and necessary expenses heretofore properly and lawfully incurred under authority of any court in relation to said property yet remaining unpaid, and all other attorneys' or counsel fees for any of the parties to this suit as the court may order to be paid.

Second. To the payment of all taxes, charges, assessments, and liens prior in law to the lien of the said mortgage or deed of trust above
2131 mentioned on said premises, or any part thereof, and to the payment of such sums as may be or may have been found necessary to clear and perfect the title to the right of way or to any property formerly claimed by said "The Alabama and Chattanooga Railroad Company," and now claimed to be embraced in said first mortgage or deed of trust, and all liabilities incurred by the receivers, including such receivers' certificates or other receivers' indebtedness as may be sanctioned or ordered to be paid by this court in accordance with the provisions hereinbefore contained.

Third. To the payment of such of the first-mortgage bonds as may be reported by the master in this cause to have been bona-fide
2132 issued, and may be outstanding and unpaid, and the interest warrants or coupons due and owing as aforesaid upon such bonds as may have been bona-fide issued, and to the payment of whatever

balance may be found to be due on the coupons or interest warrants of the said bonds which fell due prior to the said first of July, 1872, when the general default on the interest warrants or coupons of said bonds took place, as hereinbefore mentioned.

Fourth. The residue thereof, if any, shall be subject to such order and priority in distribution as this court shall hereafter establish and decree for that purpose, reserving for the future consideration and determination of this court certain bonds endorsed by the State of
2133 Georgia, numbered from 1007 to 1200, each inclusive, for $1,000.00 each, issued by the Alabama and Chattanooga Railroad Company, and endorsed by the State of Georgia for principal and interest, under an act of the State of Georgia entitled "An act to extend the aid of the State of Georgia to the Alabama and Chattanooga Railroad Company," approved March 20th, 1869, secured by mortgage on the Alabama and Chattanooga Railroad property within the State of Georgia, dated 19th December, 1868; and for the enforcement of the payment of principal and interest a proceeding in equity is now pending in this court, wherein H. A. Johnson and Company are complainants, and The Alabama and Chattanooga Railroad Company and trustees of the second mortgage are defendants.

2134 It is further agreed that no order or decree is demanded against the assignees, Bailey, Jones, and Gindrat.

And to the end that the proceeds arising from the sale of the mortgaged premises and any balances being in the receivers' hands at the time of such sale or thereafter, or which have arisen or may arise from any other source whatever from said property, should be properly distributed and the provisions in reference to such distribution above recited should be fully carried out according to the intent thereof, it is by the court ordered that Joseph W. Burke, esquire, be appointed a master commissioner to hear and report to this court with all convenient
2135 speed and before said sale, in detail and systematically, all the amounts necessary and proper to be paid out of said monies and mentioned or included in sections marked above, first, second, third, and fourth. And it is further ordered that the said master shall give at least thirty days' notice by advertisement in newspapers published in the places hereinbefore named of the time and place when and where he will attend to take proof of the claims.

And this court doth further order, adjudge, and decree that at the time of such sale, the purchaser or purchasers shall pay to said masters the sum of at least two hundred thousand dollars in cash, as part payment, to be forfeited in case of non-compliance with the terms of
2136 sale, and within sixty days thereafter or on final confirmation of said sale by this court, and at the date of the delivery of the deeds to the property, the balance in cash; provided, however, that, in the payment of such balance, receivers' certificates or first-mortgage bonds, which may have been sanctioned by this court as herein provided, may be taken as cash. Every receivers' certificate and every bond in such case to be taken only for such an amount as would equal the dividend to which they would finally be entitled under this decree; and in case receivers' certificates or bonds are accepted as cash on account of such balance, the same shall be stamped and cancelled by said masters of sale immediately on the confirmation of the sale by this court and delivery
2137 of the deeds to the property as provided above, and provided that said masters shall accept no bid at less than five million two hundred and twenty thousand ($5,220,000.00) dollars except on the further order of this court. The said masters shall, with all convenient speed,

report fully their doings to this court, and shall further report from time to time as this court may direct; and they shall, each of them, before entering on their duties as such masters, execute a bond with two or more sureties, according to the practice of this court in like cases, in the sum of ten thousand dollars, for the faithful discharge of their duties as such masters; and the masters conducting such sale shall immediately deposit the monies arising from such sale with two solvent
2138 banking institutions or trust companies in the city of Mobile, subject to the further order of this court. But is further ordered and decreed by the court that, if at any time before a sale is made as hereinabove directed or authorized, the holders of the first-mortgaged bonds or of the certificates of the receivers authorized by former order or decree in this cause, or both, should make a purchase from the State of Alabama, of the said railroad and other property hereinabove referred to, then, and in that case, the sale hereinabove directed and authorized under this decree must be delayed and stayed, and report of such delay and stay must be made to this court at its next term after such delay and stay.

All further orders to be made herein are reserved for the future consideration of the court.

(Sg'd) W. B. WOODS,
Judge.

Filed as of January 23rd, A. D. 1874.

N. W. TRIMBLE, *Clerk.*

2139 *Order confirming report of W. G. Jones, special master.*

In the circuit court of the United States for the fifth judicial circuit and southern district of Alabama. In equity.

SETH ADAMS ET ALS., TRUSTEES, &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

Now, on this twenty-third day of January, 1874, comes John C. Stanton, by his solicitor, and moves the court for final confirmation of reports as to the lands embraced by reports of William G. Jones, special master; and, it appearing to the court that no objection or exceptions
2140 have been filed to the reports of said Special Master Jones heretofore appointed by this court in reference to said lands at Chattanooga, and due and proper notice having been served on the governor of the State of Alabama, on the 16th day of September, 1873, it is now ordered by the court that the reports of the said master be, and the same are hereby, finally confirmed, and the receivers in this cause are hereby directed to complete and consummate the purchase of said lands in accordance with said reports.

W. B. WOODS,
Judge.

Filed January 23rd, 1874.

N. W. TRIMBLE, *Clerk.*

balance may be found to be due on the coupons or interest warrants of the said bonds which fell due prior to the said first of July, 1872, when the general default on the interest warrants or coupons of said bonds took place, as hereinbefore mentioned.

Fourth. The residue thereof, if any, shall be subject to such order and priority in distribution as this court shall hereafter establish and decree for that purpose, reserving for the future consideration and determination of this court certain bonds endorsed by the State of
2133 Georgia, numbered from 1007 to 1200, each inclusive, for $1,000.00 each, issued by the Alabama and Chattanooga Railroad Company, and endorsed by the State of Georgia for principal and interest, under an act of the State of Georgia entitled "An act to extend the aid of the State of Georgia to the Alabama and Chattanooga Railroad Company," approved March 20th, 1869, secured by mortgage on the Alabama and Chattanooga Railroad property within the State of Georgia, dated 19th December, 1868; and for the enforcement of the payment of principal and interest a proceeding in equity is now pending in this court, wherein H. A. Johnson and Company are complainants, and The Alabama and Chattanooga Railroad Company and trustees of the second mortgage are defendants.

2134 It is further agreed that no order or decree is demanded against the assignees, Bailey, Jones, and Gindrat.

And to the end that the proceeds arising from the sale of the mortgaged premises and any balances being in the receivers' hands at the time of such sale or thereafter, or which have arisen or may arise from any other source whatever from said property, should be properly distributed and the provisions in reference to such distribution above recited should be fully carried out according to the intent thereof, it is by the court ordered that Joseph W. Burke, esquire, be appointed a master commissioner to hear and report to this court with all convenient
2135 speed and before said sale, in detail and systematically, all the amounts necessary and proper to be paid out of said monies and mentioned or included in sections marked above, first, second, third, and fourth. And it is further ordered that the said master shall give at least thirty days' notice by advertisement in newspapers published in the places hereinbefore named of the time and place when and where he will attend to take proof of the claims.

And this court doth further order, adjudge, and decree that at the time of such sale, the purchaser or purchasers shall pay to said masters the sum of at least two hundred thousand dollars in cash, as part payment, to be forfeited in case of non-compliance with the terms of
2136 sale, and within sixty days thereafter or on final confirmation of said sale by this court, and at the date of the delivery of the deeds to the property, the balance in cash; provided, however, that, in the payment of such balance, receivers' certificates or first-mortgage bonds, which may have been sanctioned by this court as herein provided, may be taken as cash. Every receivers' certificate and every bond in such case to be taken only for such an amount as would equal the dividend to which they would finally be entitled under this decree; and in case receivers' certificates or bonds are accepted as cash on account of such balance, the same shall be stamped and cancelled by said masters of sale immediately on the confirmation of the sale by this court and delivery
2137 of the deeds to the property as provided above, and provided that said masters shall accept no bid at less than five million two hundred and twenty thousand ($5,220,000.00) dollars except on the further order of this court. The said masters shall, with all convenient speed,

report fully their doings to this court, and shall further report from time to time as this court may direct; and they shall, each of them, before entering on their duties as such masters, execute a bond with two or more sureties, according to the practice of this court in like cases, in the sum of ten thousand dollars, for the faithful discharge of their duties as such masters; and the masters conducting such sale shall immediately deposit the monies arising from such sale with two solvent
2138 banking institutions or trust companies in the city of Mobile, subject to the further order of this court. But is further ordered and decreed by the court that, if at any time before a sale is made as hereinabove directed or authorized, the holders of the first-mortgaged bonds or of the certificates of the receivers authorized by former order or decree in this cause, or both, should make a purchase from the State of Alabama, of the said railroad and other property hereinabove referred to, then, and in that case, the sale hereinabove directed and authorized under this decree must be delayed and stayed, and report of such delay and stay must be made to this court at its next term after such delay and stay.

All further orders to be made herein are reserved for the future consideration of the court.

(Sg'd) W. B. WOODS,
Judge.

Filed as of January 23rd, A. D. 1874.

N. W. TRIMBLE, *Clerk.*

2139 *Order confirming report of W. G. Jones, special master.*

In the circuit court of the United States for the fifth judicial circuit and southern district of Alabama. In equity.

SETH ADAMS ET ALS., TRUSTEES, &C.,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

Now, on this twenty-third day of January, 1874, comes John C. Stanton, by his solicitor, and moves the court for final confirmation of reports as to the lands embraced by reports of William G. Jones, special master; and, it appearing to the court that no objection or exceptions have been filed to the reports of said Special Master Jones
2140 heretofore appointed by this court in reference to said lands at Chattanooga, and due and proper notice having been served on the governor of the State of Alabama, on the 16th day of September, 1873, it is now ordered by the court that the reports of the said master be, and the same are hereby, finally confirmed, and the receivers in this cause are hereby directed to complete and consummate the purchase of said lands in accordance with said reports.

W. B. WOODS,
Judge.

Filed January 23rd, 1874.

N. W. TRIMBLE, *Clerk.*

2141 *Appeal.*

SETH ADAMS, FRANCIS B. LOOMIS, AND JOHN C. Stanton, trustees for the holders of the bonds secured by the first mortgage of the Alabama and Chattanooga Railway Company, complainants,

vs.

THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, as trustees for the holders of the bonds secured by the second mortgage of the Alabama and Chattanooga Railway Company, defts.

CHARLES B. WALLACE, COMPLAINANT,

vs.

THE ALABAMA AND CHATTANOOGA RAILROAD Company, and John C. Stanton, Francis B. Loomis, and Seth Adams, and Lewis Rice, A. C. Lippitt, and Daniel N. Stanton, and Charles Walsh, and William T. Wofford, and John F. Bailey, and John H. Gindrat, and Samuel B. Jones, defts. } Cross-bill.

2142 And now comes in open court, Charles B. Wallace, one of the defendants to the original bill in the above-entitled cause, and who is complainant in the cross-bill in the above-entitle cause, by his attorneys, John T. Morgan and William Boyles, and prays the court for an appeal and the allowance of an appeal in the above-entitled cause, (in the original cross-bill, and being but one suit,) to the next ensuing term of the Supreme Court of the United States, to be held on second Monday of October, 1874, and said C. B. Wallace, by his said counsel, respectfully asks the court to fix the amount and condition of such bond as may be required to supersede the decree, the execution thereof rendered in the above stated case, until after the said decree may be reviewed by the Supreme Court of the United States; and that this court may grant to said Wallace a reasonable time to execute such bond and security as may be required by this court; and that an order may be made by
2143 this court authorizing and empowering the register and master of this court to approve such bond.

In the above-stated case an appeal in open court is prayed for from the decree in said case to the next term of the Supreme Court of the United States, to be holden on the second Monday of October, 1874, which appeal is prayed for by said Charles B. Wallace, and is allowed by the court. And a supersedeas of the decree is also prayed for in this case by said Wallace, which is allowed upon condition that Charles B. Wallace, deft. to the original bill & complainant in the cross-bill, execute a bond, in the penal sum of one hundred thousand dollars, payable to complainants in original bill, conditioned to prosecute said appeal to effect, with good security, to be approved by the clerk of this court as special master for that purpose.

January 23rd, 1874.

W. B. WOODS,
Judge.

2144 *Appeal-bond.*

Circuit court of the United States for the fifth judicial circuit and southern district of Alabama.

FRANCIS B. LOOMIS, JOHN C. STANTON, AND Daniel N. Stanton, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company, complainants, *against* THE ALABAMA AND CHATTANOOGA RAILROAD Company, Lewis Rice, A. C. Lippitt, Daniel N. Stanton, trustees, &c., and Charles B. Wallace, and others, defendants.	On bill, &c., No. 40. In equity.
CHARLES B. WALLACE, COMPLAINANT, *vs.* THE ALABAMA AND CHATTANOOGA RAILROAD Company, Francis B. Loomis, John C. Stanton, and Daniel N. Stanton, trustees, &c., and others, defendants.	Cross-bill No. 40. In equity.

Know all men by these presents that we, Charles B. Wallace, as
2145 principal, and Campbell Wallace and Price Williams, as sureties, are held and firmly bound unto Francis B. Loomis, John C. Stanton, and Daniel N. Stanton, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company, and their successors in office, in the sum of one thousand, ($1,000.00,) to be paid to the said Francis B. Loomis, John C. Stanton, and Daniel N. Stanton, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company, or their successors in office, which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our heirs and each of our heirs, executors, and administrators, firmly by these presents, sealed with our seals and dated this 18th day of February, A. D. 1874.

The condition of the above obligation is such, that whereas the above bounden Charles B. Wallace has prosecuted an appeal to the Su-
2146 preme Court of the United States from a decree in equity rendered against him in the circuit court of the United States for the 5th judicial circuit and southern district of Alabama, on the 23d day of January, A. D. 1874, in a certain cause lately in said court pending, wherein Francis B. Loomis, John C. Stanton, and Daniel N. Stanton, trustees of the first-mortgage bondholders of the Alabama and Chattanooga Railroad Company, were complainants in the bill in equity, and the Alabama and Chattanooga Railroad Company, Lewis Rice, A. C. Lippitt, trustees, &c., and Charles B. Wallace and others were defendants; and also in the same cause lately in said court pending a decree was rendered against him on a cross-bill in equity, wherein Charles B. Wallace was complainant, and Francis B. Loomis, John C. Stanton, and Daniel N. Stanton, trustees, &c., and others were defendants, to reverse the decree rendered in the above entitled suit by said circuit court:

2147 Now, therefore, if the above-named Charles B. Wallace shall prosecute his appeal to effect and answer all costs if he shall; fail to make good his plea, then this obligation shall be null and void otherwise the same shall be and remain in full force and effect.

CHARLES B. WALLACE. [SEAL.]
CAMPBELL WALLACE. [SEAL.]
PRICE WILLIAMS. [SEAL.]

Taken and approved this the 18th day of February, A. D. 1874.

N. W. TRIMBLE,
Clerk U. S. Circuit Court 5th Circuit & Southern Dist. of Alabama.

Filing.

Filed February 19th, 1874.

N. W. TRIMBLE,
Clerk, &c.

2148 In the circuit court of the United States for the fifth judicial circuit and southern district of Alabama. In equity.

SETH ADAMS ET ALS., TRUSTEES,
vs.
THE ALABAMA AND CHATTANOOGA RAILROAD Company et als.

I, Nathaniel W. Trimble, clerk of the circuit court aforesaid, do hereby certify the foregoing to be a full, true, and correct transcript of the record and proceedings of the above-entitled cause had in the aforesaid court and appealed to the Supreme Court at Washington, as the same now appears of record and on file in my office.

In testimony whereof I hereunto subscribe my name and caused the seal of said court to be affixed this 19th day of August, A. D. 1874.

[SEAL.]

N. W. TRIMBLE,
Clerk, &c.

(Indorsement on cover:) No. 241. Charles B. Wallace, appellant, vs. Francis B. Loomis, John C. Stanton, and Daniel N. Stanton, trustees of the 1st-mortgage bondholders of the Alabama & Chattanooga Railroad Co. S. Alabama C. C. U. S. Filed 21 November, 1874.

Supreme Court of the United States,

October Term, 1877.

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CHARLES B. WALLACE,
Appellant.

Vs.

FRANCIS B. LOOMIS, JOHN C. STANTON and DANIEL N. STANTON, Trustees, &c.

Appeal from the Circuit Court of the Southern District of Alabama, at Mobile.

JOHN T. MORGAN,
Attorney for Appellant.

SELMA, ALA.,
M. D. CUSHING—TIMES JOB PRINTING OFFICE,
1877.

Supreme Court of the United States,

October Term, 1877.

CHARLES B. WALLACE,
Appellant,

Vs.

FRANCIS B. LOOMIS, JOHN C. STANTON and DANIEL N. STANTON, Trustees, &c.

Appeal from the Circuit Court of the Southern District of Alabama, at Mobile.

Statement of the Case.

In June, 1872, the Appellees filed a bill in Equity in the Circuit Court of the United States at Mobile, which bill they amended in July, 1872, (record page 282,) and again in August, 1872, (record page 414.) by withdrawing certain averments in the original bill; and again in February, 1873, by making Charles B. Wallace a defendant as a bondholder under the second mortgage of the Alabama and Chattanooga Railroad Company. This bill was to obtain the foreclosure of the first mortgage executed by said Com

pany, in which the Complainants were substituted trustees. Until Wallace was brought into the case, no person in any way interested in the second mortgage had been made a party, though, by mistake, it was stated, in the original bill. that Lewis Rice, A. C. Lippitt and David C. Stanton were supposed to be such trustees. That they were never such trustees will be seen by reference to pages 52 and 53 of the record. It was a mortgage on the lands donated by the United States Government to the Railroad Company, made to secure the state of Alabama, under which which said persons were trustees.

The two mortgages styled the first and second, were executed the same day, 19th December, 1868, and cover the same property, but were made to different trustees.

The first mortgage provides that the bonds it is made to secure are "payable at the National Security Bank "of Boston, in the Commonwealth of Massachusetts, "on the first day of January, 1889, with interest at "the rate of eight per cent. per annum, payable semi-"annually on the first days of January and July in "each year, for one thousand dollars each, and not to "exceed at the rate of sixteen thousand dollars per "mile of said railroad, and to be dated on the first "day of January, 1869."

It further provides that those bonds are to be disposed of "for not less than ninety cents on the dol lar," and that they are issued in accordance with and upon the conditions of the Act of the General Assembly of Alabama, entitled "An act to establish a sys-"tem of internal improvements in the State of Ala-"bama," &c.

The State indorsement and the contract of the Railroad Company to pay the principal and interest in coin, follow each other in the order stated below, ex-

cept that they are placed on the back of the bond which is as follows:

$1,000.] [$1,000

No.....] Eight per Cent First Mortgage Bond. [No.....

UNITED STATES OF AMERICA.

ALABAMA AND CHATTANOOGA RAILROAD COMPANY.

Know all men by these presents: That the Alabama and Chattanooga Railroad Company, a corporation existing under the laws of Alabama, Georgia, Mississippi and Tennessee, acknowledges itself indebted to the State of Alabama, or bearer, in the sum of one thousand dollars, which sum it promises to pay to said State of Alabama, or bearer, in lawful money of the United States, at the National Security Bank at Boston, in the commonwealth of Massachusetts, on the first day of January, A. D, 1889, with interest at the rate of eight per cent. per annum payable semi-annually on the first days of January and July in each year, on the presentation and delivery of the proper annexed interest-warrants.

This is one of a series of numbered bonds issued in accordance with and upon the conditions of an act of the general Assembly of Alabama, approved February 19th, A. D. 1867, and amended September 22d, A. D. 1868, entitled "An act to establish a system of internal improvements in the State of Alabama, and which in pursuance of said act are secured by an indorsement of the State of Alabama with power of sale, and by a first lien upon the entire road, including the stock, road-bed, rights of way, grading, bridges, masonry, iron rails, spikes, chairs, and the whole superstructure and equipments, and all the property owned by the Company as incident to or necessary for its business, and depots and depot stations; and said series may be issued to an amount not exceed-

ing at the rate of sixteen thousand dollars per mile of said road.

In witness whereof this Company has caused its corporate seal to be affixed hereto, and this bond to be signed by its President and Treasurer, this first day of January, A. D., 1869.

[L. S.] (Signed) D. N. STANTON,
President.
SAM. WHEELER,
Treasurer.

[$1.00 int. rev. stamp.]

(*Form of Coupon.*)

STATE OF ALABAMA.

The Alabama and Chattanooga Railroad Company will pay forty dollars to bearer, at the National Security Bank of Boston, Mass., on the first day of—— being six months' interest on bond No. ——, for $1,000.

$40. (Signed) J. F. BURR,
Treasurer.

(*Trustees' Certificate.*)

We certify that this bond is one of the series of first-mortgage bonds, described in and secured by a first-mortgage deed upon the within mentioned railroad, bearing date December 19th, 1868.

(Signed) JOHN DEMERITT,
F. B. LOOMIS,
Trusteess.

(*State Indorsement.*)

In pursuance of certain acts of the General Assembly of the State of Alabama, namely, an act approved February 19th, 1867, entitled "An act to establish a system of internal improvements in the State of Alabama," and an act approved September

22d, 1868, entitled "An act to amend the law to establish a system of internal improvements in the State of Alabama," and an act approved November 17th, 1868, entitled "*An act relating to the Wills Valley Railroad Company, and the Northeast and Southwest Alabama Railroad Company,*" the State of Alabama hereby indorses this bond and becomes liable for the payment of the principal and interest thereof, the Alabama and Chattanooga Railroad Company having complied with the conditions upon which the undersigned, Governor of the State of Alabama, is required on the part of the State to give such indorsement.

In witness whereof the undersigned, Governor of the State of Alabama, has hereto set his hand, and caused to be affixed hereto the seal of the State of Alabama, this first day of January, A. D., 1869.

[L. S.] (Signed) W. H. SMITH."

The "Alabama and Chattanooga Railroad Company" hereby further agrees to pay the principal and interest of the within bond in coined money of the United States.

In witness whereof the said corporation has caused its corporate seal to be hereto affixed, and these presents to be subscribed by Daniel N. Stanton, its President, duly authorized on this —— day of January, A. D., 1869.

[L. S.] (Signed) D. N. STANTON,
President.

The cross bill stands confessed as to its allegations by all the defendants in the cause except Walsh, who merely disclaims all interest in the suit.

No proof was offered on the hearing of the cause by any of the parties. The complainants in the court below virtually went to trial on bill and answer by consent, the exhibits thereto being parts of them.

In this state of the case the denials of the answers prevail against the bill when they are responsive to its allegations, and the new matters which are set up in the answers are taken for true, and if sufficient in law to defeat the bill, the complainants cannot get a decree.

The original bill is so filled with incompatible and contradictory statements that it should not be sustained as the basis of a decree for the complainants, see Lindsay's answer p. 292, where these are set forth. There are however two distinct propositions set forth in it, upon which the equity of the bill rests, both of which are denied in Wallace's answer, viz:

1st, That there is a valid corporation known as the Alabama and Chattanooga Railroad Company, chartered by law in Alabama.

2nd, That the mortgage called the first-mortgage was made to secure a debt, the principal and interest of which is payable "*in gold coin.*"

The original bill asserts the validity of five hundred bonds of $1,000, each of which bears the State's indorsement as first-mortgage bonds, and asserts that they were held by *bona fide* purchasers without notice, and alleges that the authorities of Alabama had unlawfully refused to recognize them or to pay interest on them.

The numbers on these bonds are from 4801 to 5300 inclusive, and payment of them was refused by the State because they were an over-issue, under the provision of the law which restricted the issue of indorsed bonds to $16,000 per mile of railroad finished according to statutory requirements.

In an amendment to the bill, which is apparently an attempt to conciliate some of the defendants, especially the Governor and his receiver, so that they would cease to defend the suit, all imputations of a personal character are withdrawn, and all allegations

in the original bill are also withdrawn, "which assert the validity of any indorsement of said State of Alabama of any of said first-mortgage bonds other than of the four millions seven hundred and twenty thousand dollars of said first-mortgage bonds upon which the Governor of Alabama has heretofore paid interest." (See record, p. 414.)

In like manner, the complainants, by said amendment, withdrew from the original bill every allegation which assails the "integrity or character of any of the defendants, or which assails or questions the validity of the proceedings in bankruptcy referred to in said bill and amendments, or the sale made to the State of Alabama in the course of said proceedings in bankruptcy."

Wallace was made a party defendant after this amendment was filed. It was never in fact allowed by the court.

In his answer and cross-bill he enters fully into the facts which show the invalidity of the proceedings in bankruptcy, and the nullity of the sale of the railroad property under it, and the purchase thereof for the State of Alabama by the Governor. Wallace, in his cross-bill, in correspondence with the purpose of the original bill, assails the right of the Governor of Alabama to seize the railroad property of the A. & C. Railroad, and place it in the hands of a receiver.

He alleges that this was a tresspass, and that the agents of the Governor are liable to account for the use of the property. and for alleged waste, and unlawful and fraudulent conversion.

As against the State, he claims that these liabilities stand against the account of the State for interest paid on the coupons of the indorsed bonds.

The State, it is charged, purchased the railroad property under the decree in bankruptcy, subject to its own alleged statutory lien, and the lien of the first

mortgage, but free of all other encumbrance, and Wallace seeks to set aside the sale, and the decree under which it was made.

The grounds of this part of his cross-bill are, in part, apparent on the face of the proceedings in bankruptcy, and will be stated in the argument. Wallace also alleges a fraudulent and unlawful combination between Jones, the petitioning creditor, and the Governor, to obtain the order of sale and to permit the Governor to purchase the property; and a promise of the Governor to Jones to pay the debt on which his petition is based, and to secure him as a holder of bonds of the A. & C. Railroad of the same class with those owned by Wallace.

The grounds on which Wallace denies that the Alabama and Chattanooga Railroad Company is a corporation under the laws of the State of Alabama are,

1st, That the law which is set forth in exhibit "C." to his cross bill, is void under the Constitution of Alabama; and

2nd, That certain conditions precedent prescribed in said act have not been complied with; and

3rd, That the attempt to organize said corporation was in fraud of the rights of the creditors and corporators of the corporations it was design-d to supplant. The points will be more fully stated in the argument.

The cross-bill sets up that the Alabama and Chattanooga Railroad Company is a joint stock company, and as such had the capacity to make the mortgages mentioned in the pleadings, but not to receive the aid of the State or to give the State any liens on its property to indemnify it as endorser of its bonds.

It claims, foreclosure and sale of the railroad property, and a decree settling the priority of the mortgages, and for an account of the debts secured by them.

The allegations of the cross-bill relating to the invalidity of the alleged incorporation of the Alabama and Chattanooga Railroad Company, all of which are confessed, are as follows:

"But orator, upon advice of his counsel, and upon information which he believes to be true, states and charges that the Alabama and Chattanooga Railroad Company is not now and never was a valid body corporate under and by virtue of the laws of Alabama. On the contrary, he avers and charges that said supposed corporation has its alleged corporate existence alone in virtue of a special act of the Legislature of Alabama, passed and approved on the 17th of November, 1868, which act upon its face is in violation of section 1, Article XIII, of the Constitution of Alabama, which is as follows: "Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes."

Orator refers to said special act, as a part of this bill, and attaches a copy of same, marked "Exhibit C." Orator states that said Alabama and Chattanooga Railroad Company had no actual or corporate existence before the date of the approval of said act, and was never before that time actually organized, nor was it organized until many days after said act was approved by the Governor of Alabama.

Orator, on like information and belief, states that the Wills Valley Railroad Company, mentioned in said act, did not comply with the essential conditions named in said act, as precedent, before said pretended change of its name to that of the Alabama and Chattanooga Railroad Company, nor has it ever in fact complied with said conditio s, in this, that said Wills Valley Railroad Company never in fact acquired the property and franchises of the Northeast and Southwest Railroad Company, as provided for

in the 6th section of said act of the 17th of November, 1868.

Orator is informed and believes, and so states, that the stockholders of said Northeast and Southwest Railroad Company never consented or agreed to the sale or transfer of the franchises or property of said corporation, but that many of them were not even consulted in making whatever sale or transfer of the same is set up by said Alabama and Chattanooga Railroad Company, and still own and claim their stock in said company; and orator charges that if said act of the 17th November is valid as a law, its terms were never complied with in the matter above stated.

Orator, in like manner, states that said Northeast and Southwest Railroad Company owed debts to many persons, which were due on the 17th of November, 1868, and still remain unpaid, and that a large sum of such indebtedness, amounting to more than thirty thousand dollars, is in the shape of bonds issued by said company, and are secured by mortgage duly executed and delivered by said company, which, as orator is informed, are of prior date and superior lien to any mortgage the State of Alabama ever held upon the property and franchises of said company.

Orator further states and charges, that a sale was made of the property and franchises of said railroad company, as set forth and provided for in the first section of said act of 17th November, 1868, soon after said act was passed, and, at said sale, the Wills Valley Railroad Company became the purchaser of all that was then and there sold, at the price of ——— dollars, it being the sum of principal and interest due the State of Alabama on a loan to said company of part of the three per cent. fund, under the provisions of an act of the Legislature of Alabama approved February 18th, 1860, by which two hundred and eighteen thousand dollars of said fund was loaned to

said Northeast and Southwest Railroad Company at six per cent. per annum interest, to be repaid in five years.

And orator further states that one W. A. C. Jones who claimed to have large debts against said Northeast and Southwest Railroad Company, and to own a large part of the stock of said company, and other persons in like manner interested, agreed with John C. Stanton, long before said sale was made under the mortgage to the State of Alabama, that said railroad and its franchises and property should be sold under said mortgage and should be purchased for said Wills Valley Railroad Company by said Stanton or some other person concerned in interest with him, and paid for with second mortgage bonds of said Alabama and Chattanooga Railroad Company, and by the procurement of said persons. Said first and second sections of said act of November 17, 1868, was passed in fraud of the rights of said company, and the other creditors and stockholders thereof, and it was agreed between the persons so concerned and the Governor of Alabama, or other agent of said State, before said sale was made, that said Governor would receive, under said act, said second-mortgage bonds of said Alabama and Chattanooga Railroad Company in payment of the sum that should be bid at said mortgage sale, and it was further agreed that said railroad and franchises and property of said company should bring at said sale no more than the amount due on the loan of said three per cent. fund, and that if said property and franchise should bring more at said sale, the same should not be paid, but should go to said Stanton or to said railroad company; and at said sale said property and franchise was bid off for said Wills Valley Railroad Company at the exact sum due the State of Alabama of principal and interest for the loan of said three per cent. fund, and said bid was afterwards paid in second-mortgage

bonds of said Alabama and Chattanooga Railroad Company, all of which actings and doings were fraudulent and against public policy, and were and are void as to the Northeast and Southwest Alabama Railroad Company and its stockholders and creditors who were not parties to said transactions: and so said Wills Valley Railroad Company never acquired the property and franchises of said Northest and Southwest Alabama Railroad Company : and so the said Wills Valley Railroad Company never had the right to change its name to the Alabama and Chattanooga Railroad Company, nor to organize under said corporate name or to elect directors thereof, nor to do any of the other acts required by said law, if it be a valid law, to be performed in the organization of said Alabama and Chattanooga Railroad Company.

And orator charges that there is not now, and never has been heretofore, in the State of Alabama, any valid corporation under the name of the Alabama and Chattanooga Railroad Company, and he charges that the Northeast and Southwest Alabama Railroad Company is still a valid and subsisting corporation and still owns a large part of the property claimed by the complainants in the original bill as belonging to the Alabama and Chattanooga Railroad Company.

Orator further states that, under said first-mortgage and deed of trust of the Alabama and Chattanooga Railroad Company, bonds were issued by said company to the amount of five million two hundred and twenty thousand dollars, and said bonds were endorsed in the name of the State of Alabama by its then Governor, in the form set forth in "Exhibit B." to the original bill filed in this cause.

Orator charges that in fact as it appears from said endorsements, the same were made under authority of said act of November 17th, 1868; and he charges

that the seventh section of said act, under which said supposed authority is derived, is unconstitutional and void, in this, that the said seventh section of said act was not passed by a vote of two-thirds of the members of each house, or of either house, of the General Assembly of Alabama, on a call of the ayes and noes, and recorded in the journals of said houses; and also in this, that the Alabama and Chattanooga Railroad Company was not in legal existence when said act was passed and approved, and it had no actual, legal or potential existence until many days after the 17th November, 1868, and the Legislature of Alabama had no constitutional power by a special act to grant to said company a loan of the money or credit of the State of Alabama, nor to give the guarantee or indorsement of the State to the bonds or other obligations or undertakings of said corporation; and for this, that in and by said act it was left to the judgment and discretion of the Governor of Alabama to determine what corporation should, at a future day, own the franchise of the Northeast and Southwest Railroad Company, and on the ascertainment of that fact to give the endorsement to such corporation, which is contrary to the Constitution of Alabama; and for this, that the conditions prescribed by the 7th section of said act had not been complied with by the Wills Valley Railroad Company, nor by the Alabama and Chattanooga Railroad Company, when the Governor of Alabama put said endorsements on said bonds; twenty miles of said railroad had not been finished, equipped and completed in the manner required by law, from Meridian in Mississippi, when said indorsements were made on said bonds, and neither the Wills Valley Railroad Company nor the Alabama and Chattanooga Railroad Company, nor any other company, had given any guarantee to the State or to the Governor, before such endorsements were made on said bonds, that

said railroad would be finished and equipped within a reasonable time, or that said railroad and bridges should be of the class known as first-class.

Orator is also informed, and believes, and so states, that no part of the said act of November 17th, 1868, was passed by a two-thirds vote of both Houses of the General Assembly of Alabama, upon a call of the ayes and noes, recorded in the journals of each house; and said act is therefore contrary to the Constitution of the State of Alabama, in so far as it authorizes the Governor of Alabama to indorse the bonds of the Alabama and Chattanooga Railroad Company.

Orator further showeth unto your Honors that, on the 22nd September, 1868, an act was passed by the General Assembly of Alabama, which, in a proviso to the first section thereof, confined the right of railroad companies to have their bonds endorsed upon that part of their lines built and equipped outside the limits of the State, to the Wills Valley Railroad Company."

Before Wallace was brought in, the parties then in the case agreed to dismiss all the suits that had been brought in the several State and Federal Courts by the State of Alabama, thus removing a most serious embarrassment to the jurisdiction of the U. S. Circuit Court in this case.

Neither the original bill, the answer of Wallace, nor the cross-bill contains any direct allegation that the one mortgage described in the bill is to be preferred to the other, but the cross-bill asserts that debts and mortgages exist against the property, which were created while it belonged to the Northeast and Southwest Alabama Railroad Company, and each of the bills seek to have the bona-fides of the ownership and issue of the bonds under each mortgage ascertained and decreed upon.

The original bill is simply a bill of foreclosure of

what is termed the first-mortgage of the Alabama and Chattanooga Railroad Company, without seeking to establish a priority of that mortgage over any other. This bill was based upon a mortgage to secure a contract described in the bill, as follows:

The mortgage and the form of the bonds covered by it, and of the interest coupons and the State's indorsement, and the agreement of the railroad company to pay the principal and interest "in coined money of the United States," are set forth as an exhibit to the bill as above copied.

The bill then contains allegations as to the sums due for interest, and to fall due for principal on these bonds, which precludes the idea that in fact and in legal effect they are payable in any other money than "gold coin."

The following extracts from the bill illustrates this fact, page 2, folio 5: "And that except as to the mere "numbers on each of said bonds the exhibit B. here- "to attached contains a copy of each of said bonds "so executed and signed, as well as a copy of the "agreement of the corporation to pay the principal "and interest of said bonds in gold."

Folio 6: "That the holders of said bonds claim and "pretend that each of these bonds is embraced in and "secured by said first mortgage, being exhibit A. "and constitutes a lien upon the property, assets and "franchises of said railway company, and is entitled "to priority over other liens on said railway."

Page 7, folio 25: "And your complainants further "state that by taking charge of said railway and its "property through a receiver or otherwise, this hon- "orable court can, &c. * * * preserve, protect, "improve and administer the property and affairs of "said corporation so as to secure ultimately to the "holders of the bonds, represented by your com- "plainants, the payment in full of their bonds and "interest, as the same is justly due, in gold, and se-

"cure the payment in whole or in part of other claims "against said company."

Page 8, folio 27: "And your complainants further "say that, as herein before alleged, the said bonds so "represented by your complainants were made pay- "able in gold coin, but that on presentation of the "same on the first days of January and July, 1871, "and on the first day of January, 1872, for payment, "the same were paid in currency of the United States, "and not in gold coin, as had been agreed; that the "several bondholders, so presenting their coupons "attached to said first-mortgage bonds for payment, "or some of them, were compelled to receive payment "in currency, but so accepted currency instead of "gold under formal written protests, which protests "have been surrendered to your complainants and "are in their possession, and upon which the said "bondholders have requested your complainants and "demanded of them, that they as such trustees, pro- "ceed at once to foreclose said first-mortgage and "trust deed for the difference between said interest "on said bonds in currency and in gold."

Page 9, folio 30: "And complainants are inform- "ed and believe that said bonds so issued under said "first-mortgage were, or the greater portion at least "of said bonds, were purchased for valuable consid- "eration by the present holders thereof, in open mar- "ket, and upon the belief that the interest on the "same would be paid by said company or by the "State of Alabama in event of default by said com- "pany, in gold coin, *for so it was denominatad and "agreed in said bond*; and that by reason of said "non-payment in gold, the said holders have incur- "red great damage; that your complainants are un- "able to state the exact amount of difference between "the sums paid by the way of interest on said bonds, "or which may be hereafter tendered in payment, "and the amount of the same if paid in gold, but

"such difference your complainants offer to establish "on the trial of this action, and for the amount thus "proved, your complainants will ask the decree of "this Court, compelling said company to pay to your "complainants for the benefit of the holders of the "first mortgage bonds."

The prayer of the bill on this subject (page 10, folio 34) is for an account of "the amounts due them (the "holders of the bonds), for such difference between "the payment in currency and the amount which "should have been paid in gold or its equivalent in "currency."

The record is silent as to the actual date of the delivery of any of these bonds into the hands of the holders.

The bonds were issued by the railroad company on the 19th of December, 1868, as appears by the required certificate of Demeritt and Loomis, Trustees. They received the Governor's endorsement on the 1st January, 1869, and the coin contract was placed upon them by D. N. Stanton, President, on the —— day of January, 1869. They were payable to the "State of Alabama or bearer in lawful money of the United States."

Assignement of Errors.

Charles B. Wallace, Appellant,
vs.
Francis B. Loomis, John C. Stanton and
Daniel N. Stanton, Trustees, &c.

And now at this October term, 1877, of the Supreme Court of the United States, comes the said Charles B. Wallace, the appellant, by his attorney, John T. Morgan, and says that in the record and pro-

ceedings aforesaid there is manifest error in this, to-wit:

1. The Circuit Court of the United States, for the Southern District, erred in the following findings as to the facts proven and established in said cause on the hearing thereof:

(a.) That the Alabama and Chattanooga Railroad Company is a corporation created by and existing under certain laws of the State of Alabama.

(b.) That said corporation issued the bonds, called first-mortgage bonds, dated January 1st, 1869.

(c.) That said corporation issued and delivered to Seth Adams, Francis Doane and John Demeritt an instrument dated on the 19th of December, 1868, known as the first-mortgage and deed of trust of the Alabama and Chattanooga Railroad Company.

(d.) That said mortgage or deed of trust, and the bonds bona-fide issued under and secured thereby, constituted, were and are a first and paramount lien over and above all liens whatever upon the property named in the said mortgage, except a lien for not exceeding the sum of one million two hundred thousand dollars raised and expended under the order of Hon. Joseph P. Bradley, Associate Justice of the Supreme Court of the United States, bearing date August 26, 1872; and in finding that said sum so raised is a first lien prior to all others on said railroad property, and to be paid before the said first and second mortgage bonds out of the proceeds of said property.

(e.) That the sale of the Alabama and Chattanooga Railroad, and the other property of said company that was made on the 22d of April, 1872, under the proceedings in bankruptcy in the District Court of the United States for the Middle District of Alabama, and the purchase of the same by the State of Alabama was valid, and was subject only to the first-mortgage and deed of trust mentioned in the bill of complaint, and the lien created thereby.

(f.) That the default in the payment of the interest warrants or coupons on said bonds has continued for upwards of three months since demand for their payment, without the consent of the holders of such coupons or bonds, and that the principal of all the bonds secured by said mortgage or deed of trust has thereby become due and payable.

2. And said Circuit Court further erred in basing its final decree on such erroneous findings as to the facts proven, admitted, confessed, and established in said cause at the hearing thereof in said Court.

3. And said Circuit Court further erred in its decree ordering and directing a sale of the property mentioned in the mortgage deed of trust, a copy of which is made an exhibit to the bill of complainant, upon the evidence as set forth in the record of the proceedings in this cause.

4. And said Circuit Court further erred in so much of its decree as is in the words as follows: "And upon confirmation of such sale by the court, and upon "receiving the purchase money therefor, the said "masters shall convey the same by good and sufficient conveyances to the purchaser or purchasers, "and such sale and conveyances so made shall convey all the right, title, estate and interest and property of the said Alabama and Chattanooga Railroad "Company" in and to "the said railroad premises, "franchises and property above mentioned and described, to the said purchaser or purchasers in fee "simple forever, and shall be a perpetual bar, both "in law and equity against the said Alabama and "Chattanooga Railroad Company, and its successors "and assigns and against every person claiming or "to claim said premises, or any part thereof, under "them forever, and against each and every of the defendants to this action, and the said defendants shall "be forever foreclosed from all equity of redemption "in said premises and every part of the same."

5. And said Circuit Court erred in excluding, by said decree, the rights of judgment creditors and mortgagees of the Alabama and Chattanooga Railroad Company to redeem the same within two years after the sale of said property, under the statutes of Alabama relating to the redemption of real estate sold under a decree of foreclosure, or other judicial sale.

6. And said Circuit Court further erred in its decree as to each of the successive distributions which it then ordered and directed to be made of the proceeds of the sale of the property which it ordered to be sold under said decree.

7. And said Circuit Court further erred in refusing all relief to the complainants in the cross-bill, on the hearing thereof, and in refusing to recognize or decree upon the rights of the creditors and stockholders of the Northeast and Southwest Alabama Railroad Company.

8. And said Circuit Court erred in retaining the original bill in said cause, and in refusing to dismiss the same on the hearing, for the variances between the allegations of said bill and the proof in the cause.

9. And said Circuit Court erred in recognizing and ordering the payment of the receiver's certificates mentioned in its decree, as a prior lien upon the estate describen in the original and cross-bill, said certificates having been issued under orders void on the face of the record for the want of jurisdiction in the Honorable Justice who ordered the issue thereof the parties in interest not having been made parties to the suit at the time said orders were made.

10. Said Circuit Court erred in decreeing certificates issued by the receivers in said cause to be paid, the same having been issued under an order of a Justice of the Supreme Court of the United States at a time when no person interested in the second-mortgage of the Alabama and Chattanooga Railroad Company

was a party to said suit; the rights and interests of said persons being admitted in the original bill, and none of said persons having had notice of the application for such orders.

11. And said Circuit Court erred in decreeing that the State of Alabama, in consequence of its endorsement of the bonds of the Alabama and Chattanooga Railroad Company, had any lien upon the property of said company which is prior to or in any way superior to the lien of the several mortgages issued by said railroad company.

12. The said Circuit Court also erred in directing the application of any money arising from said sale to the payment of "all other attorneys or counsel fees for any of the parties to this suit as the Court may order to be paid," in preference to the bonds held by Charles B. Wallace.

13. The said Circuit Court further erred in the second order for the distribution of the said property ordered to be sold by decree in the cause, in this, that all the liens prior in law to the lien of said first-mortgage or deed of trust, were ascertained and proven in the cause, if there are such liens, and the Court left them open to be decided upon in future without requiring any amendment of the pleadings, or the taking of any further proof in the cause.

14. The said Circuit Court erred in its said decree in this cause as appears upon the record of the proceedings thereon.

JOHN T. MORGAN,
Attorney for Appellant.

ARGUMENT.

The points insisted on by the appellant are as follows:

1. The original bill should have been dismissed on the hearing, because the proof was wholly variant from the allegations thereof. The bill states as a fact, and also as a conclusion of law upon the facts set forth in its allegations, that the mortgage which it seeks to foreclose was given to secure a debt due, or to fall due, payable in gold coin, both as to principal and interest; that the creditors who had been paid the interest in currency on the bonds held by them, protested in writing that they had not been paid by the State in gold coin according to the terms and understanding of their contract, and had therefore required them to file the bill to recover the difference in the value of the different sorts of money which they offer to prove on the trial. As far as language can be used to convey ideas with precision it is made clear by the bill that it is based on the coin contract endorsed by "D. N. Stanton, President," on the back of the bonds, and not on the lawful money contract contained on the face or body of the bonds.

The form of bond, and the endorsement thereon, are appended to the bill not as allegations of such facts as they establish when considered in the light of their legal interpretation. The facts and legal interpretations are both fully stated in the bill.

The exhibits are attached as copies of the papers there referred to. They are introduced to support the bill, and not to qualify its express averments.

They disprove the bill utterly.

If they are parts of the bill they render it so repugnant and incongruous that one fact alleged destroys another, and leaves nothing on which the Court can decree.

If they are evidence, they disprove the bill.

As to the necessity of correspondence between the allegations and proof, in order to justify a decree in a cause, we cite,

Crockett vs. Lee, 7 Wheat 522.
Winter vs. U. S., Hempst 344, 384.
Wilson vs. Stotley, 4 McClean 275.
Tilghman vs. Tilghman, Bald, C. C. 464.
Conoley vs. Belt, 5 Cranch 405.

Every material fact on either side must be set up in the pleadings. The Court can no more consider what is proven and not averred, than what is averred and not proved.

1 Black, Sup. Ct. 518 ;
9 Cranch 519 ;
9 Peters 483 ;
3 Barb. Ch. 613 ;
3 Ohio 61 ;
5 Dana 522.

A complainant cannot get a decree by alleging one state of facts and proving a different state of facts.

10 Wheaton 181 ;
11 Wheaton 103 ;
9 Peters 405, 483 ;
8 Johns Rep. 392 ;
31 Barb. 72 ;
23 New York (9 Smith) 357.

2. The Circuit Court, in its decree, seems to have treated the allegations of the bill—that the contract on which it is founded is a gold contract—as a mere mistake as to the rights of the complainants in law, under the facts set forth, and that being trustees, asking the aid and direction of the Court, the bondholders are not to be deprived of their remedy because of such misconception of their rights by the trustees. Opposed to this view (which is not sanctioned by any averment in the bill,) is the fact that the bondholders claimed the gold from the State in payment of their interest coupons, protested in writing, their dissatis-

faction with the refusal of the State to pay in gold, placed their bonds and coupons in the hands of trustees and directed them to file a bill to foreclose the mortgage for this default, and demanding that they should claim the gold contract, as the one and the only one secured by the mortgage. The bondholders who made this demand, and at whose instance alone the bill was filed, were not mistaken in the fact that the coin contract is the only one they ever made with the railroad company, but they were mistaken as to the rights which follow that contract, both as to the supposed liability of the State as a guarantor of that contract, and as to the claim that the first-mortgage given by the railroad company stands as a security for that contract. The mortgage was executed on the 19th of December, 1868, and a copy of the bond secured by it is referred to in its body. This is a "lawful money" bond and not a "gold coin" bond.

The Courts know judicially that at that date "lawful money" was at a large discount for gold.

U. S. vs. Amer. Gold Coin, 1 Woolworth C. C. 217, 286;

Glover vs. Taylor, 41 Ala. 124, Ibid. 687.

Carlisle vs. Davis 7 Ala. 44;

Solomon vs. The State, 28 Ala. 83;

Ferdinand vs. The State, 39 Ala. 906, Ibid 193;

Buford vs. Tucker, 44 Ala. 89;

Burdine vs. Grand Lodge, 37, Ala. 478;

Lacy vs. Holbrook, 4 Ala. 89.

It will be found that not only the plain understanding of the parties forbids the idea that they meant *gold* by the term "lawful money," but that the statutes of the State, to which reference is made in the bond, forbid the endorsement of any bonds by the Governor other than currency bonds. This attempt to raise the bonds to a gold standard was merely a transparent device to avoid the effect of the statute, which is quoted in the bond, forbidding the sale of

any endorsed bonds at less than 90 per cent. of their face value. Gold was then at over 14 per cent. premium over greenbacks.

In fact, however, this coin contract, endorsed on the back of the bonds, is the only contract which the bondholder ever consented to take from the said railroad company. It was the contract on which alone the consenting minds agreed.

The bonds are payable to the State of Alabama or bearer.

They received the State's endorsement as follows: "The State of Alabama hereby endorses this bond and "becomes liable for the principal and interest there-"of."

The State never endorsed the coin contract, which is also placed on the back of the bond which is *a further agreement* as follows: "The Alabama and "Chattanooga Railroad Company hereby further "agrees to pay the principal and interest of the with-"in bond in coined money of the United States."

This contract refers to "the within bond," upon the back of which it was endorsed, after the State's endorsement had been entered on it, and adopts its recitals to fix the amount and conditions of the coin contract, but not its value. This is greatly increased by the new contract.

The certificate of Demeritt and Loomis, trustees, is placed at the bottom of the bonds, and shows that the coin contract was endorsed upon the bond after it had been executed, and after the Governor had endorsed it.

When the Company executed the mortgage and the bonds they were payable in lawful money, and so when the Governor endorsed them. When they were delivered they were coin contracts, and were delivered to and accepted as such by the bondholders.

It was the delivery of these bonds in this plight and

condition that gave to them the obligation of a contract.

Such paper bears no obligation until it is delivered to a holder for value. The State was a mere surety on the bonds and never a holder of them.

Chitty on Bills, 70 and 306;
Utterback vs. Burns, 1 McLean 342;
Carr vs. Hoxie, 5 Mason 69;
Kertz vs. Hollingshead, 4 C. C. Cranch 80;
Welsly (Exchequer Rep.) top p. 50;
Byles on Bills, page 60;
Glasscock vs. Smith, 25 Ala. Rep. 477.

Before the contract was delivered to the "bearer" it had been changed in its most essential feature—the value—the amount of "lawful money" it would require to pay it.

"It is essential to the validity of a contract that the parties to it should have consented to the same subject matter, in the same sense, they must have contracted *ad idem*."

Hazzard vs. New England Marine Insurance Company, 1 Sumner 218;
Green vs. Bateman, 1 Woodb. and M. 359.

The bill alleges, and the facts establish, that the thing upon which the railroad company and the holders of the bonds agreed was that the Company delivered and the holder received a coin contract, which is stated in the bill as a contract for the payment of the amount of the bond in "gold coin," so that the complainants might secure the widest advantage of the premium of coin over currency.

This is not the contract that is included in the finding of the Circuit Court, and upon which its decree of foreclosure is based. In this view of the case it seems to be most apparent that the complainants in the original bill were not entitled to a decree, and the bill should have been dismissed.

5. We proceed further with the argument of this

subject because the appellees seem to assume that they are entitled to go back to the "lawful money" obligation of the bonds, if they fail on the coin contract endorsed on the back of them. If they could have such a right after setting up the coin contract, and after insisting on its payment in gold coin, and after excluding by the allegations of their bill all opportunity for such a resort, the fact remains that the only contract they agreed to was that endorsed on the bonds, and not that which was embodied in them.

The railroad company made a contract, as set forth in the bond, and it must be assumed as against the appellees, after their careful and urgent averments of the validity of the gold coin contract, that the railroad company made the contract and delivered it to the holders, endorsed on the bonds.

Parties to contracts, *i. e.*, the maker and prayee, may, at pleasure, alter them upon a new consideration.

Certainly under our statutes, where every contract in writing imports a consideration, the parties may modify or change an existing contract, so as to novate it before it is delivered. If the bonds were obligatory on the company when executed, so that they would be entitled to the benefit of the security of the mortgage in which they are described, yet, if they were altered by the insertion of new and different stipulations, or by any material changes before they were delivered, or afterwards, upon a consideration good in law, this novation so changes the contract that the mortgage ceases to protect it.

The original contract is extinguished by the novation, and the new contract cannot be tacked to it, by relation or otherwise than by a new agreement, so as to entitle it to the benefits of the security of the mortgage.

As to the effect of such alteration in a contract, or

novation of it, we cite the following authorities, which establish that when a contract is altered by consent, or novated, it only takes effect as a contract from the time of its novation, and is allowed to have no anterior existence as an obligation.

Parsons on Notes and Bills, vol. 2, p. 50, note (*i*) p. 526 and note (*z*) citing Lord Denman in Goss vs. Nugent, 5 B. and Adolphus 585, 572;

Domat. vol. 1 p. 738 § 1893;

Parsons on Notes and Bills, vol. p. 528;

Abbott's National Digest, p. 558 § 265 and cases there cited;

Commercial Farmers' Bank vs. Patterson, 2 Cranch C. C. 346;

Clark vs. Miller, 18 Barb. 271.

The following cases sustain the foregoing propositions, and also apply pointedly to the results which follow such alterations of contracts:

Derry vs. Reed, 40 Barb. 21;

Spring vs. Bank of Mt. Pleasant, 14 Peters 208;

Haydon vs. Brown, 18 Ala. 643;

Scott vs. Hausman, 2 McLean 130;

Thomasson vs. Dill, 30 Ala. 444;

Wallace vs. Lang, 16 Ala. 740;

McVoy vs. Wheeler, 6 Port. Ala. 201;

Martin vs. O'Connor, 6 Ala. 618;

Acker vs. Bender, 33 Ala. 230;

Young vs. Fuller, 29 Ala. 464;

Murphy vs. Banfield, 27 Ala. 634;

Wiley, Banks & Co. vs. Knight, 27 Ala. 349;

14 Peters 208;

Wood vs. Steel, 6 Wallace p 80 (a case strongly in point);

Bruce vs. Weskott, 13 Barb. 374;

Edwards on Bills 146;

Bank of America vs. Woodworth, 19 Johns. 391;

Nazro vs. Green, 24 Wood 374;

Chappell vs. Spencer, 23 Barb. 584;

See McVean vs. Scott (in which Chappell vs. Spencer is reaffirmed) 46 Barb. 388;

Legal Tender cases 18 Wall. 548, and 8 Wallace 609, (and see on this point Homer vs. Wallis, 11 Mass. 309, in which a note was vitiated by the addition of a subscribing witness who was not present at the execution of the note.)

In addition to the foregoing cases, we cite below others in point, and of the highest authority on the propositions above stated, and also especially as showing that upon the undisputed facts in the record, the first mortgage is postponed to the second mortgage.

1. Because, it was never intended to secure the gold contract.

2. Because, if it was intended to secure a contract on the same consideration, the *novation* of the contract by an alteration in its terms, of a material character, released the mortgage security as against the immediate mortgage.

3. Because such *novation* of the contract extinguished the contract secured by the first mortgage, after the right of the second mortgage bond holders had fully attached upon the property.

4. Because the doctrine of relation is "a *fiction of the law*," and is never applied to break down an intermediate right of a third party obtained on a good consideration.

Woods vs. Steel, 6 *Wallace* 80;

Morey vs. Dunlap, 5 *Lansing, N. Y.*, 365, (*see headnotes in* 3d *vol. U. S. Digest new series, p.* 45, § 13.

13 *Howard Rep.* (*S. C.*) 335

Mayer vs. Boyd, 5 *Md.* 102.

Twigg vs. Taylor, 27 *Md.* (*Jones*) 247, *see Ashby vs. Maddox* (as to the right of a double judgment), *Hempstead* 217.

Adler et. al. vs. Fenton et. al. 24 *How.* 411.

Parsons on Notes and Bills vol. 2, *pages* 530, 49, 50, 51, *and note* (*b*) 556–7, 562, 571, 573, 575, 582.

McMikcen vs. Webb, 6 *Howard* 299.

Smith vs. U. S. 2 *Wallace* 219.

Mead vs. York, 6 *New York* 449.

1 *Domat. p.* 916, § 2309.

Trescott vs. King, 6 *New York* 157.

James vs. Johnson, 6 *Johns. Ch.* 429.

4 *Kent's Com.* 175, *and cases cited.*

Alderson vs. Langdale, 4 *Barn. & Adolp*, *top p.* 155.

Newell vs. Mayberry, 3 *Leigh Va.* 250.

Wheelock vs Freeman, 13 *Pick.* 165.

Mills vs. Storr, 2 *Bailey S. C.* 359.

Byles on Bills, *top page* 372.

Bissell vs. Kellogg, 60 *Barb.* 626.

Fletcher vs. Peck, 6 *Cranch* 87.

Field vs. Seabring, 19 *How. U. S.* 323.

The mortgage and the debt it was made to secure are identical and inseparable. "The mortgage can have no separate existence." "When the note is paid, the mortgage expires." "It cannot survive for a moment the debt which the note represents."

Carpenter vs. Langan 16 *Wall.* 275.

The gold debt on the bonds, is not the currency debt which was contemplated, but was never made obligatory by delivery, The mortgage could never become operative until *the* debt to which it was intendended to be *an incident* was created by the delivery of the bonds. See cases cited *supra.*

Whether the gold contract was the only one ever made by the company with what are called the first mortgage bondholders, or whether the contract was novated by the making, delivery, and acceptance of the gold contract, in either case "the instrument known as the first mortgage," (original bill, folio 4,) did not stand as security for such debt. The new debt cannot be tacked to the abandoned or extin-

guished contract, nor to the mortgage given to secure it.

See authorities above cited, and also

Nase vs. Bronson, 6 *Wallace* 452.
Champney vs. Cook, 34 *Barb.* 539.
Sherman vs. Sherman, 3 *Ind.* 337.
Curran vs. Arkansas, 15 *How.* 310.
Trescott vs. King, 6 *New York* 166.
Domat. vol. 1, *p.* 916, § 2309.
Mead vs. York, 6 *New York* 449.
Wright vs. Bundy, 11 *Ind.* 398.
6 *John. Chg.* 449.
Wilmington & M. R. R. Co., vs. Wright, 5 *Jones* (*N. C.*) 304.
Kent's Com. vol. 4, (*m. p.*) 175.

5. *Estoppel of Wallace by the recitals in the second mortgage.*

No answer, plea, or demurrer is interposed to the cross bill. It is taken as confessed as to all its allegations.

If, otherwise, Wallace was estopped to deny that the first mortgage is a lien prior to the second, this rule would not be allowed to operate in favor of the appellees if they have used their first mortgage for a purpose not contemplated when it was executed, or in any sense, in fraud of the law.

Peabody vs. Fulton, 3 *Barb. Ch.* 451.
Hilliard on Mortgages, 583.
Noyes vs. Clark, 7 *Paige* 179.

The change in the terms of the contract so as to raise it to the gold standard of value was intended for the purpose of avoiding the force of the statues prohibiting the sale of bonds at less than 90 per cent. of their face value. It was also a fraud on the second mortgage bondholders, whose mortgage and bonds

are of the same date with the first mortgage and bonds, that, after they had paid for their bonds, the amount of the first mortgage bonds should be raised nearly two hundred thousand dollars above the sum intended to be secured by said mortgage, by a new agreement, not then contemplated, to make the debt payable in coin and not in currency. These parties are not claiming under the same mortgage, and the making of the first mortgage was not in any wise induced by the fact that the second was made. There is no mutuality and no deception, and there can be estoppel *in pais* between these parties. Unless the fact appears affirmatively that the person setting up the estoppel has relied on the conduct, admissions, or declarations of the other party, and has been misled by them, there is no estoppel.

Mallory vs. Horn, 12 *Abbott Pa. Rep.* (*N.S.*) 289.
Hilliard on Mortgages, *vol.* 2, *pp.* 396 *and* 398.

The recitals in the second mortgage admit the fact that the first mortgage was made but not its validity.

Abbott vs. Wilbur, 22 *La. Annual Rep.* 393.
Holmes vs. Holmes. 4 *Lansing* 388.
Bradley vs. Cory. 59 *Maine* 494.
Governor vs. Pierce, 31 *Ala.* 465.
Crutchfield, vs. Herndon, 23 *Ala.* 393.
Tait vs. Frow, 8 *Ala.* 543.
Freeman vs. Buckingham, 18 *How. U. S.* 182.

6. *The Corporate existence of the Alabama and Chattanooga Railroad Company.*

It is denied in Wallace's answer that the Alabama and Chattanooga Railroad Company was ever chartered by law in Alabama. In the cross-bill the facts are set forth which establish that said company was never lawfully chartered. These facts are copied in the foregoing statement of the case.

Appellant insists that this was

(1.) A mere effort to evade the constitutional provision that "corporations may be formed under gen-"eral laws, but shall not be created by special act "except for municipal purposes."

Two existing corporations, each in full organization, —the Wills Valley Railroad Company,—and the Northeast and Southwest Railroad Company, occupied and owned the line of railroad, in part completed, or nearly so, over which it was desired to place a new corporation as owner.

This new corporation, the Alabama and Chattanooga Railroad Company, had no existence in law. It could neither own property nor make a contract. The design was to confer on this company all the property, rights, franchises, easements and powers then owned by the other two corporate bodies. To accomplish this the other bodies were to be extinguished, and out of their remains the new one was to be created. They owed debts, had outstanding bonds secured by mortgages, and had stockholders, each of whom had a full proprietorship in the charters to the extent of his stock. These debts were to be paid, and this stock was all to be purchased as conditions precedent to what was termed "the consolidation" of the companies. The acts of the Legislature of Alabama, to which reference is made in the original bill as the basis of the incorporation of the Alabama and Chattanooga Railroad Company, contain many provisions which were omitted or altered in the act of October 8th, 1868, and many new provisions relating to the organization, the powers and franchises of the new corporation that are not found in either of the existing charters. A corporation is the creature of the law, and can never have a corporate existence otherwise than by a substantial compliance with the statute authorizing its formation.

So true is this that any material omission in the

process of incorporation is fatal to the existence of the corporation attempted to be organized, and may be taken advantage of collaterally in any form in which the fact of incorporation may properly be called in question.

Harris vs. McGregor, 29 Cal., 124; Field vs. Cooke, 16 La. Ann., 153; Mokellumne Mining Co. vs. Woodbury, 14 Cal., 424; Carey vs. Cinn. R. R. Co., 5 Clarke, 366; Dartmouth College vs. Woodward, 4 Wheaton, 636; Angell & Ames, Corp. p. 2.

The act of the Legislature under which the Alabama and Chattanooga Railroad Company was created, approved November 17, 1868, is unconstitutional. That act *amends* the charter of the Wills Valley R. R. Company in several material particulars, without setting forth the entire act revised or the section or sections amended. Constitution of Ala., article 4, section 2; Lapsley vs. Weaver, 44 Ala., 131.

It is entitled "An act relating to the Wills Valley "Railroad Company, and the Northeast and South-"west Alabama Railroad Company," and it makes direct reference to "All the corporate authority and "functions, rights and privileges of both the North-"east and Southwest Alabama Railroad Company "and the Wills Valley Railroad Company," and "provides that "the Alabama and Chattanooga Rail "road Company" shall "exercise all the corporate "authority and functions, rights and privileges, of "both the Northeast and Southwest Alabama Rail-"road Company and the Wills Valley Railroad Com-"pany." See Acts of 1868, p. 347, section 6.

By the charter of the Wills Valley Railroad Company it is provided that there shall be "*nine directors*" of said Company. See Acts of 1851-2, p. 180, section 4.

By the Act which provides for the creation of the Alabama and Chattanooga Railroad Company it is enacted that the directors of said Company shall not

"be *less than seven.*" See Acts of 1868, p. 348, section 8.

By the Act of 1851–2 above referred to it is provided that "a majority" of the directors of the Company shall constitute "*a quorum.*" By the Act of 1868 it is provided that "there shall be no restriction" as to the number necessary to constitute a quorum. By the Act of 1851–2 the capital stock of the Wills Valley Railroad Company is fixed at $350,000, with the privilege of increasing it. By the Act of 1868 the capital stock of the Alabama and Chattanooga Railroad is not fixed at any amount.

What is said of the Wills Valley Railroad Company is also true of the Northeast and Southwest Alabama Railroad Company.

By the charter of the latter (Acts of 1853–4, pp. 270–281) it is provided that its capital stock "shall be seven millions of dollars, in shares of one hundred dollars each, which may be increased one million more, if necessary"; and it is further provided that there shall be "*twelve directors*" of said corporation. The amount of each share in the Alabama and Chattanooga Railroad Company is fixed by the Act of 1868 at fifty dollars.

The conferring of all these powers *en masse* upon the same corporation by one and the same act is enough to render that Act *void for uncertainty.* It may well be asked what are *the powers* of this new corporation And who can answer the question?

Another constitutional objection to this Act of 1868 is that it contains at least *six different subjects*, not one of which is set forth in the title to the Act. These may be briefly enumerated as follows:

1. It provides for the purchase of the Northeast and Southwest Alabama Railroad Company by the Wills Valley Railroad Company.

2. It provides for the most anomalous and extraordinary releases, relinquishments and transfers, every

one of which is mercilessly directed against the destruction of the rights of the most helpless portion of the community, and the more effectually to accomplish the object and purpose of such "releases, relinquishments and transfers," the Judical Department of the Government is thrust aside and set at defiance, and a mode is provided by which married women, and lunatics, and young children, shall be deprived of their property without due process of law. See section 4 of said act.

3. It provides for the rescission or modification of an agreement for the consolidation of the Northeast and Southwest Alabama Railroad Company, and the Wills Valley Railroad Company, before that time entered into under and by authority of an act of the Legislature of the State of Alabama, approved October 6, 1868.

4. It provides for the creation of the Alabama and Chattanooga Railroad Company by name, and the conferring upon it of all the powers and privileges herein before named, together with other new powers and privileges. See 6th section of said Act.

5. In the seventh section of this Act it provides for State aid to the Alabama and Chattanooga Railroad Company.

6. In the eighth section of the Act it provides for the number of Directors of the Alabama and Chattanooga Railroad Company.

The first section of that act is unconstitutional in attempting to make valid the mortgage therein described.

Alabama Life Insurance Trust Co. vs. Boykin, 38 Ala. 510.

It is unconstitutional on the futher ground, that it provides that the entire purchase money to be paid for the property therein authorized to be purchased, shall "be paid in securities satisfactory to the Governor," thereby ignoring the rights of the *cestui que* trust to

have said property sold for the highest price it would bring in cash. This statute does not administer the rule of law prevalent when the contract of the Northeast and Southwest Railroad Company was made with the State, but it creates a new rule, which impairs the obligation of a contract.

Angell and Ames on Corporations, (9th ed.) § 179.
Curran vs. The State of Arkansas, 15 Howard 312.
2 Kent, 307, note a.
Hightower vs. Thornton, 8 Georgia 593.
Bacon vs. Robertson, 18 Howard 480.
Law vs. Robertson, 6 Wallace 277.
State vs. Bailey, 16 Ind., 46.
Bank of Salem vs. Caldwell, 16 Ind., 469.

The 3d, 4th, 5th and 6th sections of said Act are each unconstitutional and void, for the reasons and upon the authorities last above cited.

The 6th section of said Act is clearly obnoxious to section 1, article 13, of the Constitution of Alabama. It is the creation of a new corporation by a special act of the Legislature. The *name* of a corporation is the very being of its Constitution, "the knot of its combination," without which it could not perform its corporate functions. Angell and Ames on Corporations, (19th ed.) section 99, and authorities there cited. The language of the Act plainly shows that it was the intention of the Legislature *to create a new Corporation* upon the happening of certain contingencies therein named, or to allow the Corporators of the Wills Valley Railroad Company to do so under the authority of that Act, which is all the same thing, so far as its being in conflict with this particular provision of the Constitution is concerned. In either event it was not the formation of a Corporation *under a general law*. But that it was the intention of the Legislature that a new Corporation should be formed; see the language of the Act.

Atkinson vs. The M. & C. R. R. Co., 15*th Ohio State Rep.* 21.

See also Angell and Ames on Corporations, (9th ed.) section 780, and authorities there cited.

Vilas vs. Milwaukie and Prairie du Chien Railway Company, 17 Wisconsin 497.

Bellows vs. Hallowell Bank, 2 Mason 43, 44.

Wyman vs. Hallowell Bank, 14 Mass. 58.

Smith vs. Chicago & Northwestern Railroad Co., 18 Wisconsin 17.

Kex vs. Pasmore 3 T. K., 241, 247, 248, 249.

People vs. Marshal, 1 Gilman 672.

What the Constitution forbids the Legislature to do directly it cannot do indirectly.

A company incorporated by one name cannot change that name. This can only be done by the Legislature.

Angell and Ames on Corporations, (9th ed.) section 102.

Rosenthal vs. Madison Railroad Co., 10 Ind. 359.

The Legislature may create a Corporation, not only without conforming to the rules of the common law, but in disregard of them ; but when a Corporation is thus created, its existence, powers, capacities, and mode of exercising them must depend upon the law of its creation, and upon its objects.

Angell and Ames on Corporations, (9th ed.) section 111; and authorities there cited.

Penobscott Corporation vs. Sawyer, 16 Maine 224.

Cowen and Roods vs. McPherson, 1 Speers 218.

And where a corporation relies upon a grant of power from the Legislature for authority to do an act, it is as much restricted *to the mode prescribed by the statute or charter* for its exercise, as to the thing allowed to be done.

Forwers, Son & Co , vs. Carroll, 5 Barb. 613.

Angell and Ames on Corporation, (8th ed.) section 111.

The 7th, 8th and 9th sections of the above Act of 1868, being predicated upon the 6th section of said Act, are also each of them void.

There is an almost unbroken chain of authority to the effect that the franchise of a Corporation is not transferable.

Angell and Ames on Corporation, (9th ed.) section 191, note 5, and authorities there cited.

Arthur vs. Commercial Bank, 9 Smedes' and M. 394.

Chapman vs. Mad. River & C. R. R. Co., 6 Ohio St. Rep., 119, 201, 415, 792.

And that the rights legally vested in a Corporation cannot be destroyed by any subsequent statute, unless a power for that purpose be reserved to the Legislature in the act of incorporation.

Wales vs. Stetson, 2 Mass., 146.

Ferrett vs. Taylor, 9 Cranch 43.

And that a Railroad Corporation is not dissolved by the sale to another Corporation, which sale is authorized by an Act of the Legislature.

Souman vs. Sebaron R. Co., 30 Penn. St. 42.

Angell and Ames on Corporations, (9th ed.) section 773.

And that a transfer attempted to be made of the franchise of a Railroad Company by a majority of the stockholders or directors is invalid.

New Orleans and Chattanooga Railroad Company vs. Harris, 37 Miss. 517.

Woodford vs. Union Bank, 3 Caldwell 488.

And that in this country the consent of all the shareholders to the amalgamation of different Companies should be obtained.

Fisher vs. Evansville and Crawfordsville Railroad, 7 Ind., 407.

Kearn vs. Johnson, 1 Stockton 401.

And that where two Corporations are created by adjacent States, with the same power to construct a

Canal to extend through a portion of each State, and afterwards their interests are united by subsequent Acts of each State, that this does not merge the separate corporate existence of such Corporations, but only creates a unity of stock and interest.

Farrow vs. Blackstone Canal Co., 1 Sumner 47.

If the Alabama and Chattanooga Railroad Company never had any corporate existence owing to the invalidity of its act of incorporation, then it could never perform, and did never perform, the fundemental precedent conditions of its existence in other respects namely—*acquire the corporate franchises, rights and property of the N. E. & S. W. Ala. R. R. Co.*

Neither did the Wilis Valley Railroad Company perform these conditions. It had no power to perform them.

The Northeast and Southwest Alabama Railroad Company was duly chartered and organized under the laws of Alabama. The State in 1860 recognized its organization, and by an Act of the Legislature loaned it three hundred thousand dollars of the "Three Per Cent. Fund," and took its mortgage to secure the repayment of the money. The franchise of this corporation *belonged to its stockholders*. The Acts of October 6, 1868, and November 17, 1868, in providing for the transfer of the Northeast and Southwest Railroad Company to the Wills Valley Railroad Company, omitted to provide for the consent *of all the stockholders* of the Northeast and Southwest Railroad Company, *but did provide* for the transfer, on conditions which did not include the consent of all the stockholders. In other words, it attempted to transfer the property of the stockholders to another corporation, without their consent. It attempted *to transfer all the property* of the Northeast and Southwest Railroad Company, without the consent of all the stockholders, and thereby render of no value the

further maintenance of the corporate existence of that Company, or the maintenance of its organization.

Such exercise of power was beyond the constitutional right of the Legislature of Alabama.

Atkins vs. The M. and C. Railroad Co., 15 *Ohio State Rep.*, 21.

There is no Act of the Legislature of Alabama which purports to be *an act of incorporation* of "The Alabama and Chattanooga Railroad Company." Such an act would have been so palpably unconstitutional that it was deemed wise to avoid the development of the real purpose to create such a corporation in fact.

A union of the two by consolidation and amalgamation was attempted in the Act of 6th October, 1868, but the result had so much the appearance of "a new creature" that this effort was abandoned, after *the agreement* to consolidate had been made.

The Legislature came in again and helped them undo this knot, by declaring the *agreement* was executory, and allowing them to destroy it.

But there is no act of the Legislature of Alabama which *purports* to incorporate the Alabama and Chattanooga Railroad Company.

The Act relied on as the basis of the incorporation is an Act "*in relation to*" two *other* corporations. This Act provides and prescribes certain things that shall be done by those corporations, before the Alabama and Chattanooga Railroad Company can have corporate existence.

The maxim "*delegatus non potest delegare*" applies to this sort of law making. The Legislature cannot delegate a power to the Wills Valley Railroad Company which it should exercise directly. If the Legislature *had expressed all, in this act and by its terms*, which it attempts to empower the Wills Valley Railroad to do, in fabricating this new corporation, it could never have denied that this Alabama and

Chattanooga corporation had sprung directly from its authority, as a new creature. The attempt made in the Act of November 17, 1868, was to *transfer* the property and franchises of a corporation created to construct and operate a great railroad, and the means vested in it which were necessary to accomplish the object for which it was created to another company, not by direct act of transfer, but by authorizing the Wills Valley Railroad Company to acquire "the property and franchises of the Northeast and Southwest Railroad Alabama Company." These things could not be transferred by any act of the Northeast and Southwest Alabama Railroad Company, or by any proceeding against it *in invitum*, except the decree of a Court.

Susquehanna Canal Co. vs. Bonham, 9 *Watts and Serg.*, 27.

Thomas vs. Armstrong, 7 *Cal.*, 286.

Wood vs. Truckee & Co., 24 Cal., 486.

"A railroad, with its appurtenances, is an indivisible unit."

Lanman vs. Lebanon Valley R. R. Co. 30 *Penn. State Rep.*, 47.

The objection that the Alabama and Chattanooga Railroad Company has never been a corporatton in Alabama is founded not merely on the want of authority in the Legislature to give full effect to a consolidation of two corporations, but upon "the mode of doing it." No consolidation can be valid unless it amounts "to an act of dissolution" of the old corporations. This dissolution is not "*a corporate act.*" It must be the act *of the members* of the corporation.

Ibid, *p.* 48, 49.

See 15 *Ohio State Rep.* 21, *and Arthur vs. Commercial Railroad Bank*, 9 *Smeedes and M.* 394.

This act in effect cuts off the Northeast and Southwest Railroad Company from all right of redemption under the mortgage, and under the statutes of re-

demption. It is a virtual confiscation of the property of this Roilroad Company, and *deprives this corporation of the right* to redeem its property from under the mortgage *to the State*, by a payment in anything but money to the full amount due on the debt, while it gives to "the Wills Valley Railroad Company," *and to it only*, the right to purchase this property at mortgage sale, to be made by the State, and the purchase money to be paid "in securities satisfactory to the Governor." If the same privilege had been given to the Northeast and Southwest Railroad Company, it could, probably, have redeemed the property mortgaged, at less than the full amount, in money, of the debt and interest due on the mortgage. As to the stockholders of this company, who have not consented to this arrangement, this law is oppressive, and places their property within the power of the Wills Valley Railroad Company.

A sale of the property of the Northeast and Southwest Railroad Company under this act, if it be valid, deprives the company, when the Governor has accepted these securities, of its right of redemption in equity and under the redemption laws, because the statute provides that only this, and no more, is necessary to pass the title to the property, powers and franchises of the corporation to the Wills Valley Railroad Company. The act means this, that *a sale of the road, etc.*, as thus provided for, shall pass the legal title, and extinguish the equitable title to all the property of the company, bar the equity of redemption, and the right of redemption under the statute, and dissolve the corporation, so that the stockholders cannot act on the question of redeeming the property; ond it transfers the corporate franchises to the purchaser, *provided that purchaser should be the Wills Valley Railroad Company.* The mortgage under which all this is done makes no such provision.

If the Legislature of Alabama exceeded its powers in the effort to create this corporation out of the material which belonged to two others, no subsequent ratification or recognition of the acts could validate them; much less could any admissions of Charles B. Wallace give validity to such unconstitutional laws.

Dutchess M. Co. vs. Davis, 14 Johns. 238;
Trustees of Vernon vs. Hill, 6 Cowen 23.

The actual frauds charged in the cross-bill upon the parties concerned in the effort to absorb the property of the Wills Valley Railroad Company and the Northeast and Southwest Alabama Railroad Company, and the stock of said companies, and to defeat the creditors of said companies, which are set forth in the foregoing statement of facts are confessed on the record.

If the acts empowering, those concerned, to organize the Alabama and Chattanooga Railroad Company were constitutional, still these frauds would utterly defeat the organization. No act, however solemn, can claim the sanction of the law, or command the approval of the courts, that is based on open and injurious frauds.

The purchase, by the State, of the property of the A. and C. Railroad Company under proceedings in bankruptcy.

The Circuit Court in its decree recognizes the right of the State of Alabama, so acquired, as extinguishing the rights of all lien holders except those claiming under the first-mortgage bonds.

The bill alleges that the property of the railroad company is worth more than all the debts against it, of every kind.

This is admitted in the answer. In this view it is

important to the second-mortgage bondholders whether the purchase of the property by the State removed it from their lien, and remitted them to the fund realized from the sale for the satisfaction of their debts. It is to be observed however that the sum bid by the State instead of having been claimed by the Circuit Court as a means to satisfy the bondholders whose liens it in fact represented, was permitted to remain in the District Court as funds belonging to the general bankrupt estate of the railroad company. This sale was made after the Circuit Court had taken the property into the custody of the law, through its receivers. Indeed the petition in bankruptcy was filed after the Circuit Court had seized all the property, and every power and franchise of the company, and held them *in gremio legis* for purposes of administration and sale. While thus sequestered, the railroad company had no more power than a dead man to defend against the bankrupt suit, or to render the schedules, or surrender its property, so as to comply with the bankrupt law or get a discharge.

It is further contended that the order made by the bankrupt court is void, as is charged in the cross-bill, because no person, in fact, interested in the second-mortgage bonds of the bankrupt, had notice of, or was made a party to the proceedings for the sale.

The express and only purpose of the petition for the sale of the property of the railroad company "free of incumbrance" was to remove, and forever silence, all claims of the second mortgage bondholders, and so it appears in the petition for the sale. (Record p. 464.)

But the petitioners were wholly mistaken as to the persons who represented the second-mortgage bondholders, and gave notice to the wrong parties. Notice of the application was essential to the validity of the order of sale.

Bump on Bankruptcy, 135;

2 Vol. Abbott's Nat. Dig. p. p. 546, 548;
Foster vs. Glazener, 27 Ala. 396.

The order of sale, however, was not of the fee simple, freed from incumbrances. It was, in fact, only a sale of the equity of redemption of the company under the second-mortgage. (Record p. 484.)

The order of sale is silent as to any encumbrances free from which the property is to be sold.

The second-mortgage is not the least affected by said order of sale, as a continuing lien on the property.

The State, if it got any rights under said purchase, only acquired the right to redeem the property from under the second mortgage, just as the railroad company could have done. It only acquired the rights of the railroad company, and not the rights of the second mortgagees by its purchase. Those interested in said mortgage were not parties to the petition for the sale of the property, nor was their claim upon it, or interest in it, sold under order of the Court.

But the entire proceeding in bankruptcy was void, or at least voidable, for the want of conformity to the statutes in the initial steps taken therein, and should have been reviewed and reversed, under the prayer of the cross-bill, which is especially framed for this purpose, or said proceedings should rather have been disregarded by the Circuit Court in its consideration of the cause. The facts are set forth in the cross-bill of Wallace in folios 1551 to 1553, p. p. 458,459 of the Record.

The proceedings in bankruptcy are not *stricti juris*, either proceedings in law or equity, but a *new remedy or proceeding created by statute*, the administration of which has been vested in particular Courts or Judges, *independent of their common law or chancery powers as Courts of general jurisdiction.*

Hilliard on Bankruptcy, 2d ed., 364--365 and cases cited in the note thereto.

Morris' Estate, Crabbe Reports.

The method of administering bankrupt laws, including the tribunals and functionaries to which this office is entrusted, are *sui generis*, and matters of precise and positive statutory regulation. The jurisdiction of each Court and of each Judge, in bankruptcy, is neither more nor less than that which is conferred by the statute of the United States of 1867, commonly called the Bankrupt Law, and the statutes amendatory thereof. The statutes constitute the *sole source of jurisdiction in bankruptcy* in the United States.

Hilliard on Bankruptcy, 362, 364, and notes;
Morris' case, 1 Abbott, U. S. R. 514;
Morris' case, Crabbe's Report, 91;
Land *ex parte*, 6 Vesey, 782;
Phillis vs. Shaw, 8th Vesey, 250;
Smith *ex parte*, 19 Vesey, 473;
Thatcher vs. Powell 6 Wheaten, 119;
Lucas vs. Morris, 1 Paine's Reports, 396.

In Thatcher vs. Powell, 6 Wheaton, 119, Chief Justice Marshall delivering the opinion of the Supreme Court of the United States, used the following language: "In summary proceeding where a Court exercises an extraordinary power under a special statute prescribing it course, we think that course ought to be exactly observed, and those facts especially which give it jurisdiction, ought to appear in order to show that its proceedings are *coram judice*. Without this act of Assembly, the order for sale would have been totally void. This act gives the power only *on a report to be made by the Sheriff. This report gives the Court jurisdiction*, and without it, the Court is as powerless, as if the act had never passed."

The principle thus asserted by Chief Justice Marshall, is, in substance, this: That the jurisdiction of a Court or Judge, in bankruptcy, under such statu-

tory provisions as are contained in the bankrupt law of the United States, can be acquired "only in the cases and in the mode prescribed by the Legislature" of the United States. And this principle is too firmly established, both upon reason and authority, to be openly denied, though it may occasionally be practically disregarded.

Hart vs. Gray, 3d Sumner's Reports, 339, (per Story J.);

Sheldon vs. Gill, 8th How. (U. S. Sup. Court) Rep. 451.

Undoubtedly Congress had power to have framed the Bankrupt law so that a Court or Judge would have had jurisdiction to make an order requiring the debtor to appear and show cause why he should not be adjudged a bankrupt, before the "*filing of the petition*," authorized by section 39 of that law. But Congress deemed it unwise to frame the law in that way, and did actually frame the law differently.

Section 38 of the Bankrupt law enacts that the "*filing of a petition* for adjudication in bankruptcy, either by a debtor in his own behalf, upon which an order may be issued by the Court, or by a Register in the manner provided in section four, shall be deemed and taken to be the *commencement of proceedings* in bankruptcy under this act; the proceedings in all cases of bankruptcy shall be deemed *matters of record*, but the same shall not be required to be recorded at large, but shall be carefully filed, kept and numbered *in the office of the Clerk of the Court*," &c., &c., &c.

Section 40 of the same law enacts "*that upon the filing of the petition*, authorized by the next preceding section, if it shall appear that sufficient grounds exist therefor, the Court shall direct the entry of an order requiring the debtor to appear and show cause, at a Court of Bankruptcy to be holden at a time to be specified in the order, not less than five days from

the service thereof, why the prayer of the petition should not be granted; and may also, by its injunction, restrain the debtor, and any other person, *in the meantime*, from making any transfer, disposition, &c., &c., &c.; and if it shall appear that there is probable cause for believing that the debtor is about to leave the district, or to remove or conceal his goods and chatteis, or his evidence of property, or make any fraudulent conveyance or disposition thereof, the Court may issue a warrant to the Marshal of the district, commanding him to arrest the alleged bankrupt, &c., &c., &c., and forthwith to take possession provisionally of all the property and effects of the debtor, and safely keep the same until the further order of the Court.

In pursuance of the 10th section of said law, the Justices of the Supreme Court of the United States framed divers general orders. By the first of these general orders, it is provided that "the clerks of the several District Courts shall enter upon each petition in bankruptcy the day, and the hour of the day, upon which the same shall be filed; and shall also make a similar note upon every subsequent paper filed with them; and the papers shall be kept in a file by themselves. No paper shall be taken from the files for any purpose, except by order of the Court."

The fourth of said General Orders is headed "Commencement of Proceedings," and provides that 'upon the filing of a petition in case of voluntary bankruptcy, or as soon as any adjudication of bankruptcy is made *upon a petition filed* in case of involuntary bankruptcy, the petition shall be referred to one of the Registers in such manner as the District Court shall direct."

Section 49 of said bankrupt law confers upon the Supreme Courts of the several Territories of the United States, when the bankrupt resides in either of

said Territories, "all the jurisdiction, power and authority conferred upon and vested in the District Court of the United States by this act in cases of bankruptcy." By the first section of the act of June 30th, 1870, amending the said act of 1867, it is provided "that the jurisdiction conferred upon the Supreme Courts of Territories by the act to which this is in amendment, may be exercised *upon petitions regularly filed* in that Court," &c., &c.

The very forms promulgated by the Justices of the Supreme Court of the United States (which constitute part and parcel of the bankrupt law by virtue of section 10 of that law), prove conclusively that no Judge or Court has jurisdiction to make an order to show cause upon creditor's petition," until the petition itself is *filed*. See Forms, Nos. 55, 56 and 57.

A case must be undoubtedly depending before the action of the Court or a Judge can be had. But no case is depending, if the petition has been only presented to the Judge and has never been filed.

Congress could have framed the law so as to make the *presentation* of the petition to the Judge or Court, without previous filing, sufficient to give the Judge or Court jurisdiction to make an order to the debtor to show cause. But Congress did not so exercise its power. The act passed by Congress made the *filing* of the petition an essential preliminary to the jurisdiction of the Court or Judge to make such an order, precisely as the Act of Assembly mentioned by Chief Justice Marshall in Thatcher vs. Powell, 6 Wheaton 119, made *the report of the Sheriff* an essential preliminary to the jurisdiction to make the order for sale mentioned in that case. Under that act *the report of the Sheriff* gave the Court jurisdiction. Under the act of Congress, *the filing of the petition in the office of the Clerk or with the Clerk*, is essential to the jurisdiction of the Court. Without such filing, "the Court is as powerless as if the act (in relation to bank-

ruptcy) had never passed," —with this possible exception, to wit: that if the petitioning creditor had actually tendered his petition to the Clerk to be filed, and the Clerk had refused to receive or file it, the Court, on proof of such tender and refusal, in order to prevent or remove such obstacle to its jurisdiction, might order the Clerk, and compel him to mark the petition as filed on the day it was so tendered and refused.

It is certain that Congress had the power to direct the Clerk of a Court (or the Clerk and a petitioning creditor) to perform a specified service, without mak ing his (or their) act the act of the Court. When Congress had thus exercised its power, in a law deliberately enacted by it, the law neither asks nor permits any exercise of judicial functions, before an actual refusal by such Clerk to perform such specified service, so far as the performance of that specified service is concerned. The Georgetown and Alexandria Turnpike Co. vs. Custiss, 6 Cranch, 233, (by Chief Justice Marshall.)

By the Bankrupt Law and the General Orders and forms promulgated by the Justices of the Supreme Court of the United States thereunder, Congress has virtually directed the Clerk and the petitioning creditor "to perform a specified service" as a condition precedent to the jurisdiction of the Court or Judge over the case made by the petition. That specified service consists (at least) of the actual delivery of the petition by the creditor to the Clerk to be filed, and its reception by the clerk for that purpose. Without such delivery, the law gives the Clerk no authority to file the petition. It requires him absolutely to file a petition so delivered to him, "without submitting the paper to the judgment of the Court. The law asks not the intervention of the Court and requires no exercise of judicial functions. The difference between this act (*of filing the petition*) and those, the

execution of which is superintended by the Court, is apparent. In those cases, the instrument is to be brought into Court, and *acted upon by the Court;* in this *it is to be delivered to the Clerk at any time*, and acted on *by him* without the intervention of the Court." Custiss vs. Turnpike Co., 6 Cranch, 233.

In further support of the proposition, that the filing of the petition is the commencement of the proceeding in bankruptcy, the decisions of various Courts and Judges are cited, as follows:

In re Patterson, B. R. Sup. 27.
In re Barnett, 16 Pitt's, L. J., 73.
In re Levy *et al*, B. R. Sup., 30.
In re Rosenfield, 1 B. R. 60.
Mays vs. Mauf's Nat'l Bank, 3 L. T. 55.
In re Gregg 3 B. R. 181.
In re Hinds *et al*, 3 B. R. 91.
In re Wymie, 4 B. R. 5.
Brock vs. Terrell, 2 B. R. 190.
Allen vs. Massey et al, 3 L. T. B. 188.
In re Bromley & C., 3 B. R. 169.
Wells vs. Brackett, 30 Maine 61.
In re Rockfield (by Judge Field), 15 Pitts' L. J., 245.

Another seemingly conclusive argument in favor of the same proposition is the following: The right of a creditor to force his debtor into bankruptcy, is given by the bankrupt law only; and this law, in giving this right, fixes its duration by the following words, found in its 39th section; "provided such petition is brought *within six months after the act of bankruptcy shall have been committed*" The meaning of the word "brought," as used in section 39, is made plain by section 40, which says "that upon *filing* the petition," &c. Such petition is not, in legal contemplation, "brought" until it is *filed*. If any other construction be given to this law, then a single creditor may, upon his unfiled petition, obtain from the Judge

an order to show cause; may himself keep the petition and order as his own property forever, unless he chooses to file the same; and whilst thus keeping the same, may hold the same *in terrorem* over all persons who have dealt with the debtor within the preceding four or six months; and if they will pay him enough, he may hold the same in his possession until their protection is made complete by the expiration of the four or six months from the time of their dealings with the debtor, and then may file the same. It is evidently against the plain policy and spirit of the bankrupt law, thus to allow any Judge to arm any creditor with an *itinerant* order to show cause against a debtor; an order which certainly cannot be of force until the creditor thinks proper to file it; an order which enables the creditor obtaining it to procure advantages over all other creditors in various ways, and especially by making terms with those who have dealt with the debtor within four months next before obtaining the order.

It is clear from the words of section 40 of that law, that if any Judge has jurisdiction to arm any creditor, upon an unfiled petition, with such itinerant order to show cause, he has jurisdiction also, upon such unfiled petition, to arm the creditor with the sweeping injunction, the sweeping command to take possession of all the debtor's property, and the warrant to arrest the debtor, mentioned in section 40. Surely, the Bankrupt law does not confer such jurisdiction upon any Judge, *before* any petition has been filed, *before* there has been, in law, the commencement of the proceedings, *before* there is any cause depending or in court, and whilst all the papers remain with the creditor as his own private property.

If the order of the Circuit Judge is even valid as an order to show cause, it is null and void *as an order directing the manner in which service by publication should be made.* It was made by the Circuit Judge

in the absence of the District Judge; it was made *before* the petition *was* filed; it was made at a time when it was impossible for the Circuit Judge to know, that the District Judge would continue absent until the return of the Marshal, therein contemplated, should occur. It was *not*, when made, one of the "NECESSARY rules and orders preparatory to the final hearing" of *a cause in bankruptcy*, which the amendment of the Bankrupt law, approved June 30th, 1870, authorizes the Circuit Judge to make. By the plain meaning of section 40 of the Bankrupt law, *no Judge can direct* service to be made by publication in any manner, *until it first* is made to appear, in some legal mode, that the "debtor cannot be found, or his place of residence ascertained." The law does not permit a direction that service shall be made by publication, when such direction is made by a Judge *before it appeared, or could possibly appear* in any legal mode, that the debtor could not be found or his place of residence ascertained.

Brightly's Federal Digest, page 505.

Hollingsworth vs. Barbour, 4 Peters, 474, 475.

If the aforesaid direction of the Circuit Judge, as to service by publication is null and void, there is no other direction *by any Judge*, as to service or publication; and, therefore, the publication amounts to nothing in law; and the decree of adjudication by Judge Busteed would be a mere nullity, for want of jurisdiction *as to the person* of the debtor, even if the Court had jurisdiction of *the subject matter*. If it had not also jurisdiction as *to the person* proceeded against, its decree is merely void; and if void for want of jurisdiction, in any respect, it may be assailed *collaterally* as well as directly.

Brightly's Fed. Dig. page 505.

The Circuit Judge for the 5th Circuit of the United States cannot commence in the Middle District of Alabama, a proceeding in bankruptcy against an alleg-

ed debtor, by making an order that the debtor show cause why the prayer of the petition should not be granted, if the petition has never been filed with any clerk, or in any clerk's office; nor can such Judge make any valid order upon such unfiled petition, directing service upon the debtor by publication in two newspapers, in the event the Marshal shall make a certain specified return upon said order to show cause.

The effect of the decrees pro confesso.

It appears from the statements in the original bill that the only first mortgage bondholders known to the complainants, (appellees), required them to bring this suit. They have permitted the trustees, from thence until now, to conduct and control the suit.—So that they cannot disclaim responsibility for their actions.

Whatever in this suit would bind the trustees, binds them also, and they can claim no relief, nor set up any defense which the trustees have not claimed or set up in their pleadings.

A decree *pro confesso* is a judicial determination of the facts as alleged in the bill. It should stand on the footing of a solemn admission of the facts well pleaded.

"When a decree *pro confesso* is regularly taken it obviates the necessity of proof whether the defendant is a resident or non-resident."

Pendleton vs. Evans, 4 Wash. C. C. Rep. 337.
Wilbur vs. Piller, 10 Ala. 306.
Arnold vs. Shepherd, 6 Ala. 299.
Butler vs. Butler, 10 Ala., 668.
Greenleaf on Evidence, vol. 3, § 275-6.
Conondine vs. Conner, 21 Ala. 573.

In the case of the United States vs. Samperyack, 1

Hempstead, C. C. Rep. p. 118, a *decree pro confesso* was held sufficient to support a decree final setting aside a former judgment of the court because it had been obtained by the fraud of the plaintiff. See also,

Davis vs. Gray, 16 Wall. 203.

This case also decides that the court had jurisdiction to decide upon the asserted liens of the State, notwithstanding it was not a party to the suit.

The liens of the State.

If the State's endorsement was made upon the bonds of a company that was not a body corporate, under the laws of Alabama, it was void under the statutes authorizing such endorsement to be made.

Or if the endorsement was valid when made, but the contract so endorsed was changed in a material part before it was delivered to the holder, the State is thereby released.

In addition to the authorities cited above, we cite the following:

Coddingham vs. Gilbert, 17 N. Y. (3 Smith) 490.

McMicken vs. Webb et al, 6 Wheat. 219.

The State, by its disavowal of liability on some of the bonds secured in the first mortgage, which certainly were obligatory on the railroad company, forfeited, or resigned, its statutory or mortgage lien on the property. It cannot, by its sovereign will, fix the boundaries of its liabilitiey as surety or endorser on the bonds, and then claim all the property of the company as being subject to its prior lien for the amount it may so choose to recognize as binding upon it.

If the State's rights are so far respected that the Court will do nothing counter to them, the same rule would preclude the foreclosure of the first mortgage

for a period of fifteen years from the date of the bonds. As against the State no creditor can, under the statutes, claim that his bond is due within that period, nor can any creditor within that period foreclose his mortgage against the railroad company. This is one of the means provided by the statutes to increase and make permanent the security of the State upon its endorsements.

Receiver's Certificates.

When Justice Bradley made the order under which these certificates were issued, no person having any interest in or connection with the second mortgage was a party to the suit, and the order was made in vacation.

Meyer, Trustee, vs. The Selma, Rome and Dalton Railroad Company, Ala.

The raising of this money may be necessary and its expenditure legitimate, so as to entitle the Receivers to credit for it as receivers' expenses, but the certificates are not a lien upon the property. There is no evidence in the record to support them as valid claims on either ground.

The findings of the facts by the Circuit Court.

It is respectfully submitted that the findings of the Court on each point covered by the assignment of errors, is contrary to the pleadings in the cause, as well upon the original bill as upon the cross-bill, and if they were essentially correct, they cannot support a decree based upon such pleadings.

Besides these findings are directly against the facts

judicially ascertained in this case by the decree "*pro confesso*," on the cross-bill.

Counsel fees.

In so far as the decree reserves or sets apart the proceeds of the sale of the property to be applied to pay counsel fees, other than the counsel of the Trustees and Receivers, we think it involves the rights of the holders of the several mortgage bonds.

JOHN T. MORGAN,
Attorney for Appellant.

Supreme Court of the United States.

CHARLES B. WALLACE
vs.
LOOMIS, STANTON, *et al.*

No 31.

Brief of P. PHILLIPS & W. A. MAURY,

FOR APPELLEES.

December 4, 1877.

R. O. Polkinhorn, Printer, 632 and 634 D Street, Washington, D. C.

Supreme Court of the United States.

CHARLES B. WALLACE
vs.
LOOMIS, STANTON, *et al.*

Brief of P. PHILLIPS & W. A. MAURY,

FOR APPELLEES.

In the year 1868 there existed in the State of Alabama two railroad corporations known as the "Northeast and Southwest Alabama Railroad Company," and the "Wills Valley Railroad Company."

On 17 November, 1868, an Act was passed authorizing the "Wills Valley Railroad" to purchase from the "Northeast and Southwest Railroad" its road, together with its franchise, &c.

By the 6 section, it is provided that, after said purchase and due publication thereof, the name of the road may be changed to the "Alabama and Chattanooga Railroad Company," and thenceforward it shall "sue and be sued, and exercise all the corporate authority and functions, rights and privileges of both the Northeast and Southwest Railroad Company," and the "Wills Valley Railroad Company," and "have and enjoy all the property acquired under this act."

The 7 section provides that, when it shall appear that twenty miles of the Northeast and Southwest Railroad are completed, the Governor of the State shall endorse

the first mortgage bonds "of the corporation which shall then own the franchise of the Northeast and Southwest Railroad to the extent of $16,000 per mile, and so, on the completion of every five miles thereafter." Acts of 1868, p. 345.

This purchase and consolidation having been effected, the corporation under its new name—the Alabama and Chatanooga Railroad Company, and styling itself as a "corporation of the States of Alabama, Georgia, Mississippi and Tennessee," and under its corporate seal executed to Adams, Dane and Demerritt, Trustees, a deed of mortgage of all its property to secure the bonds to be issued under said mortgage and the State for its indorsement thereof. p. 13.

The form of the bond is given at p. 20, and recites: "That the Alabama and Chatanooga Railroad Company, a corporation existing under the laws of Alabama, Georgia, Mississippi and Tennessee, acknowledges itself indebted," &c., &c.

It is signed by the President and has affixed the corporate seal.

On the 1st of January, 1869, the Governor of the State endorses the same, reciting: "The State of Alabama endorses the bond and becomes liable for the payment of principal and interest thereof—the Alabama and Chatanooga Railroad Company *having complied with the conditions* upon which the undersigned, Governor of the State, is required on the part of the State to give such indorsement."

This is followed by the further indorsement—"The Alabama and Chatanooga Railroad Company hereby further agrees to pay the principal and interest of the within bond in coined money of the United States."

Under precisely the same designation and under its

corporate seal, the said company on the 19th December, 1868, executed a second mortgage to Carleton, Rice and Paine, trustees, to secure an additional issue of bonds.

In this the first mortgage is recited and it is expressly stipulated that "this indenture, and the provisions herein contained, and the titles hereby conveyed, are subject to the limitation and restriction, that the above mentioned first mortgage and all the liens of the State, by reason of its indorsement of the bonds issued under said first mortgage, shall be paramount."

In both of these mortgages is the same recital, "that by virtue of the act of 17th November, 1868, the Wills Valley Railroad had changed its name to the Alabama and Chatanooga Railroad Company."

Under both of these mortgages bonds were issued. The indorsement of the State being on those issued under the first mortgage.

It appears that the company having made default in the payment of its interest, the Governor of the State in 1871 caused the road to be seized, and while it was in the hands of Gindrat, his agent, proceedings were commenced in bankruptcy, which resulted in a decree declaring the company to be bankrupt; and finally in a decree of 13th March, 1872, for the sale of all its properties, subject to certain liens of the State, and the holders of the first mortgage bonds. p. 484.

This sale took place, and the State became the purchaser for the sum of $312,000.

On 30 May, 1872, Adams, Loomis, and Stanton, at that time the trustees under the first mortgage (see amendment, p. 282), filed the present bill, in which is set forth the embarrassment of the road by pending litiga-

tion in the several States through which the road ran, and also by the bankruptcy proceedings. It prays for the appointment of a receiver, with power to protect and improve the road, and for this purpose to borrow money, and that the possession and title may be so secured by the decree, that the purchaser under the decree may be assured of quiet enjoyment, and thus prevent a sacrifice of the property.

Among the named defendants are the Alabama and Chatanooga Railroad Company, and the trustees under the second mortgage.

The bill was subsequently amended by withdrawing any allegation assailing or questioning the validity of the proceedings in bankruptcy, or the sale made to the State of Alabama, or which asserts the validity of any indorsement by the State of said first mortgage bonds, other than of the four million seven hundred and twenty thousand dollars of said first mortgage bonds, upon which the Governor has heretofore paid interest.

The prayer for a receiver was concurred in by an agreement signed on behalf of the corporation, and by the attornies of the second mortgage bondholders. p. 164.

The application was made on 20 June, 1872, and heard by Justice BRADLEY on the 26 August, 1872, when receivers were appointed with authority to raise by loan one million of dollars to constitute a first lien on the road; an injunction was also issued restraining all persons from interfering with the management and possession of said receiver. p. 415.

On 14 February, 1873, Wallace, the present appellant, was allowed to make himself a party defendant, and on same day filed his answer. p. 449.

Replication filed by leave of court 23 December, 1873. p. 568.

The answer denies that there was any such corporation as the "Alabama and Chatanooga Railroad Company." It avers that the act of the Legislature under which it claimed to be incorporated is void, being contrary to the Constitution of the State; that it is, nevertheless a valid joint stock company; that if the act of the Legislature was valid, its provisions were never complied with.

It is, however, admitted that, notwithstanding it was not legally incorporated, still the first and second mortgages named in this bill are valid liens upon the property of the Wills Valley Railroad Company.

It is insisted that five hundred of the first mortgage bonds and one thousand of the second mortgage bonds were issued without consideration, and as they are now held by the parties to whom they were issued, are invalid.

It is denied that the said corporation was ever decreed a bankrupt, as averred in this bill, as the proceedings for this purpose were *coram non judice*, and the decree ordering the sale of the franchise and property of said corporation, freed from the *incumbrance of the second mortgage, and the purchase at said sale by the Governor of the State of Alabama, are therefore void.*

It is also averred that the indorsement of the State on the first mortgage bonds is invalid, because the law under which it was made is unconstitutional. The governor therefore had no authority to seize the road and property of the company in the manner "correctly stated in the bill of complainant."

Further, it is alleged, that the State had repudiated its liability on five hundred of the first mortgage bonds, and therefore the trustees under the first and second mortgages had the superior right to the State to take possession of the road.

The answer then states how the defendant is interested in this litigation, by averring that "he is the holder of five of second mortgage bonds, each for the sum of one thousand dollars, issued by said railroad company in good faith and upon a valuable consideration, but said trustees have not come forward to protect respondent, but, on the contrary, connive at and do not resist by appeal to the courts the power of the State to take said property, and to place it beyond the reach of said trustees and said bondholders."

Leave is then asked to file a cross-bill "to protect his rights and interests, and that he be allowed to participate in such relief as may be granted to complainant to the extent that may be necessary to protect his rights in the premises." p. 451.

The cross-bill is found at p. 452, and is an enlarged statement of the matters set up in the answer.

In reference to the proceedings in bankruptcy it avers:

"That the court had no jurisdiction, because the company was proceeded against as a corporation, whereas the act of incorporation was void, and because no petition was filed when the rule to show cause was made, and because the order requiring its publication was not in accordance with the statute, and because the order was made by Judge Woods who had no jurisdiction in the middle district.

"That he never had any notice of the petition filed by the assignees for sale of the property, and does not know whether the other persons named as defendants had any notice thereof, nor did he have notice that the trustees in the second mortgage had resigned, nor that Seth Adams, F. B. Loomis and C. Stanton had been substituted, as alleged in the petition.

"That the court in bankruptcy had no authority to order a sale of the property freed from the incumbrance of the second mortgage and leave it subject to the first mortgage." (460.)

That the property was sold on the 22d April, 1872, and the same purchased by the State for $312,000. That this was done by an agreement between the assignees and Jones and the Governor to defeat the chance of the second bondholders from realizing anything from the future increase in the value of the property, and to cut them off from the right to question the conduct of the agents of the State.

That the State has paid in this purchase $100,000, and by reason of the non-payment of the remainder a resale was ordered at January Term, 1873, in thirty days if the State does not pay within that time. The sale to take place 20th February, 1873. (461.)

That he has not proven his debt against the bankrupt, and could not do so without surrendering his security, and none of the trustees in said second mortgage have been made parties defendant in the petition for sale, so that he has no sufficient opportunity to appear and resist the same.

The prayer of the bill is that it may be decreed that the A. & C. R. R. is not a body corporate, but a joint stock company, and that the first and second mortgages be upheld as valid, and that they be enforced. (462.)

That the proceedings in bankruptcy be held for naught; that the endorsement of the bonds by the State be declared invalid, and, consequently, that the State has no lien on the property of the company.

That the said mortgages be upheld as valid securities for the benefit of such persons as are *bona fide* owners of said bonds, and that their rights and priority be deter-

mined by the decree, and that an account be taken of the sums due to the owners of the bonds secured by each mortgage.

That Gindrat, Bailey and Jones be held to account fo the rents and profits of the road while in their posse - sion.

That if it should be held that the company was incor porated and the indorsement of the State was valid, that an account be taken of the rents and profits while the road was in possession of the State.

That if the bankruptcy proceedings be not set aside the order of sale may be annulled and further proceedings be enjoined.

That the court will continue its custody of the property now in the hands of its Receivers, and when the property is sold by it the proceeds be brought into court and paid to the parties entitled thereto. (462.)

No evidence was introduced by Wallace, except such as is contained in the exhibits to his bill, and these consist in the first mortgage set up by the complainants A. The second mortgage under which the defendant claims B. The act of the Legislation incorporating the company C. Decree of the court in bankruptcy D.

The decree in this case was rendered on 23 January, 1874, and recites that the cause was heard on the bill, and answers of Lindsay, Wofford, Walsh, Mobile & Ohio R. R. Co., and Charles B. Wallace, and replication thereto, and that a decree *pro confesso* was taken against all the other defendants, and also on the cross-bill of Wallace which was taken, *pro confesso*, against all the defendants, "no opposition being made by any other party interested in the subject matter of this action."

It is then declared that the A. & C. R. R. Company is a corporation created by the laws of Alabama, and that the States of Tennessee, Mississippi and Georgia made it, as organized in Alabama, a corporation each of its own, and said corporation became single and the same corporation, though existing in, and holding property in different States and the property described in the mortgage, is held as an entirety.

That the first mortgage and the *bonds, bona fide, issued* thereunder, constitute a paramount lien on the entire road and its property, except as to the monies raised by the Receivers for the repair of the road under the order of Judge BRADLEY of the 26 August, 1872. To ascertain this amount reference is made to a Master to report these liabilities.

That there were issued and sold to *bona fide* holders "*a large amount of said bonds.*"

That the company had defaulted in payment of interest coupons, prior to July, 1872, and this default has continued, notwithstanding due demand on the company.

That the corporation was decreed a bankrupt on the 6 November, 1871, and all its property sold by decree of the court on 22 April, 1872, to the State of Alabama, subject to the lien of the first mortgage bonds.

It is then decreed that the road be sold as an entirety on the 1st, Monday, May, 1874; the purchaser to receive a conveyance which shall be a perpetual bar against the company, its successors and assigns, and against each and every of the defendants.

The proceeds of the sale are then directed to be applied—

First. To payment of expenses incident to the execution of the trust.

Second. To payment of taxes and all liabilities in-

curred by Receivers, including such of their certificates as may be ordered to be paid by the court.

Third. To such of the first mortgage bonds as may be reported by the Master to have *been bona fide issued.*

Fourth. The residue to be subject to such order and priority and distribution as the court shall hereafter decree.

To the end, that a proper distribution of these proceeds may be made, it is referred to a master to report the amounts necessary to be paid out of said moneys included in above sections.

The decree then states *that, by agreement,* no order or decree is demanded against the assignees of bankruptcy—Bailey, Jones and Guidrat.

From this decree Wallace now takes his appeal.

ARGUMENT.

Indorsement in Coin.

From page 22 to 31, the appellants' discussion proceeds on the effect of the indorsement made by the company to pay in gold coin.

The bill, it is true, as filed by the trustee, seeks to enforce the payment of the bonds in accordance with this indorsement. It contains, however, a prayer for general relief.

This claim for payment in coin was abandoned on the hearing; and the decree enforces the bond only according to the terms therein contained.

Wallace, as holder of the second mortgage bonds, has therefore nothing to complain of in this regard.

He neither by plea, answer or cross-bill, raised any question in reference to this indorsement in coin.

So far as as the Record shows, this question is for the first time raised in this court on appeal.

The mortgage and bond set forth as exhibits, are part and parcel of the bill as fully as if contained in the body of the complaint. They contain no mention of coin, and the bill is to foreclose this mortgage.

Taking these exhibits and the prayer of the bill together, it was seen by the court that more was asked for than was justified by the mortgage sought to be foreclosed.

The whole frame of the bill shows that the trustees were entitled to have the mortgages foreclosed, to pay the bonds.

In decreeing, as the court did, that these bonds should be paid in currency and not in coin, the trustees, though they got less than was asked for, obtained only what was justified by the allegations of the bill.

The concluding prayer of the bill is, that "all and whatever was, and is by said mortgage conveyed to complainants as trustees, be sold also for the payment of the first mortgage bonds. And in the event that the proceeds of the sale shall not be sufficient to pay the bonds in full, principal and interest, then to be distributed under the direction of the court in such equitable proportion *as shall be found proper in a due and faithful execution of the trust reposed in complainant in said mortgage.*" p. 11.

This special prayer fully sustains the decree. But if it did not, it is fully justified by the prayer for "*such other and further relief as may be agreeable to equity.*"

Estoppel.

The next ground of argument relates to the admissions made by Wallace as to the existence and priority of the first-mortgage bonds. p. 31.

It is insisted that these do not create an estoppel which would prevent Wallace from now denying that the first-mortgage has precedence over the second.

The second mortgage under which he claims, as a bond holder, is made part of his answer by exhibit; and this opens with the distinct recital of the execution of the first mortgage.

It then sets forth a provision for the issue of second-mortgage bonds, "*to be subject in all respects to the aforementioned first mortgage, and to the said bonds to be issued thereunder.*" p. 473.

Again, the answer while denying the *corporate* character of the company, avers that, in legal effect it was a joint-stock company without a charter. "*Still said mortgages are valid and binding on said company.*" p. 450.

And so in his cross-bill he prays, "*That said mortgages be applied as valid securities for the benefit of said persons as are bona-fide owners of the bonds of said company, and that they be enforced.*" p. 462.

It is difficult to understand how in the presence of these facts, it is now in the power of the appellant to assert that the first mortgage is not a prior lien to the second.

Corporate Character.

Another head of argument, at p. 32, proceeds on the denial of the corporate existence of the company.

Wallace claims under a mortgage executed by the company, which recites that in "pursuance of an Act of the

General Assembly, approved November 17, 1868, and entitled an act relating to the Wills Valley Railroad Company, and the Northeast and Southwestern Alabama Railroad Company, the said Wills Valley Railroad Company has changed its name to the Alabama and Chattanooga Railroad Company."

The deed thus concludes: "In witness whereof, the said Alabama and Chattanooga Railroad Company, the party of the first part has caused these presents to be signed, executed, acknowledged and delivered in its name and behalf, by its President and Treasurer and has caused its corporate seal to be hereunto affixed, &c., &c.

These mortgages were executed in 1868. The road was built by moneys arising from the sale of the bonds, and from that day to this, the corporate character of the company has been recognized by the State, as will be seen by the following acts:

See Act 11 Feb., 1870, p. 89, to loan to the corporation the credit of the State.

Act 14 Feb., 1870, p. 99, directing the mode of holding meetings of directors.

Act 25 Feb., 1871, p. 12, to protect the credit of the State.

Act 21 Dec., 1872, p. 32, authorizing the sale of the road purchased by the State at the sale in bankruptcy.

Act 14 April, 1873, p. 53, to ratify certain contracts made by the Governor.

Act 21 April, 1873, p. 47, for the substitution of State bonds.

Act 28 March, 1873, to appoint commissioners to investigate claims.

Act 22 April, 1873, p. 91, relative to the claims of attorneys in connection with this corporation.

In addition to which is the indorsement by the State. "The State endorses the bond and becomes liable for the payment of the principal and interest—the Alabama and Chattanooga Railroad Company *having fully complied with the conditions* upon which the Governor of the State is required to give such endorsement."

And, again, at p. 35, there is a bill by the State, expressly avering the incorporation of the company.

If, however, we were to admit that any irregularity existed, or any omission to comply with any of the requirements of the act, it was for the State, and State alone, to inquire into it. The waiver by the State may be made either expressly or by matter *in pais*.

Davis vs. *Gray*, 16 Wall., 232.

Besides this it would be sufficient, notwithstanding any defect in the organization, to sustain the complainants as a corporation *de facto*.

Commissioners vs. *Bolles*, 94 U. S. 104.

On this head the finding of the Court is, "that the company is a corporation created by and existing under the laws of the State of Alabama. That the State of Tennessee granted corporate powers to said corporation, as did also the States of Georgia and Mississippi, and that the said States made the corporation, known as aforesaid as the Alabama and Chattanooga Railroad Company, as organized and conducted in said State of Alabama, a corporation each of its own; and said corporation became a single and the same corporation, though existing in and holding property in different States, and its property held under the mortgage is held by and under the said mortgage as an entirety." (p. 620.)

We have thus before us the case of two mortgages executed on same day by the same corporation. Both of

them provide for the issue of bonds. The recital in the one last executed makes it subject to the lien of the first.

The complainants below, represent the bonds issued under the first; Wallace, the present appellant, represents the bonds issued under the second. He has no interest except such as is derived from the corporation.

Both parties therefore claim under the same source of title.

One who has taken and relies upon a conveyance of lands from a company, which assumed in giving it to act as a corporation, cannot deny the legal existence of the corporation in an action against him to recover possession of the land, by another person who has attached the same in an action against the company as a corporation.

Dooley vs. *Wolcott*, 4 Allen, 406.

Again, the cross-bill in no wise seeks to establish any liability for the bonds except as against the corporation.

If, therefore, Wallace could successfully deny the existence of the corporation, he would succeed in showing that he was entitled to no relief and had no ground of complaint against the decree.

He became the holder of these bonds, knowing they were issued by the company acting in its corporate capacity. He also had notice that they were subordinated to the payment of the bonds under the first mortgage. His right to payment is vested under the second mortgage. This, as well as the bonds, are executed by the *corporation*. He now, in one breath, calls upon the court to enforce *this corporate act* while declaring the corporation has no existence. This is to blow hot and cold at the same time.

The complainant sue the company as a corporation, and the cross-bill proceeds against the company in

its aggregate capacity, and not against the individual members thereof—while stating it to be a joint stock company, he in reality proceeds against it as a corporation, as no decree is prayed for against any individual.

But, again, while denying the corporate capacity of the company, the appellant himself insists that the two mortgages, and the bonds issued under them, are valid instruments, and the jurisdiction of the court is invoked to enforce them.

It is not denied by him, that as to the bonds issued *bona fide* under the first mortgage, they constitute a prior lien on the property mortgaged.

The decree of the court does no more than the appellant requires it to do. It establishes the priority of the first mortgage bonds, directs a sale for the payment of such as were *bona fide* issued, and directs that the residue of the purchase money "shall be subject to such order and priority of distribution as the court shall hereafter establish and decree."

As this portion of the decree is in conformity with the prayer of the appellant, it is not easy to see what ground of complaint he has with the finding of the court—that the company was legally incorporated.

It is also objected that the act of the Legislature authorizing the incorporation of the company is unconstitutional.

This objection rests on the clause of the constitution of the State, which declares that corporations may be formed under general laws but shall not be created by *special act* except for *municipal* purposes.

Without stopping to inquire as to the extent of this

limitation, and whether it is to be considered as directory merely, it is sufficient to say that the special act of 17th November, 1868, exhibited at page 481, does not *create* a corporation. The title is "an act relating to the Wills Valley Railroad Company and the Northeast and Southwest Alabama Railroad Company."

These were existing corporations, whose validity is not assailed. After providing for the purchase of the latter by the former, the act declares, that when this is done then it may *change its name* to the Alabama and Chatanooga Railroad Company, "and henceforward exercise all the corporate authority and functions, rights and privileges of both the Northeast and Southwest Alabama Railroad Company, and the Wills Valley Railroad Company, and have and enjoy all the property acquired under this act."

It needs no argument to sustain the power of the Legislature to authorize this transaction.

The constitutional provisions rest merely on the consideration of saving the time of the Legislature, so much of which is usually consumed by special legislation, when a general law would answer every legitimate purpose.

But in the case before us, no general law could have been framed. Nothing but a special act could cover the case; and as no new corporation was created by it, there is no foundation for the allegation that it is *ultra vires*.

Purchased by the State under bankruptcy proceedings.

The appellant, from page 44 to 55, argues that these proceedings were *coram non judice*.

It is most important that he should be able to sustain this proposition, for if they are not void, he has not the slightest interest in the controversy, as the sale was made

to the State "freed from the incumbrance of the second mortgage."

In the petition by the assignees for a sale it is represented that the only holders of second mortgage bonds known to them are W. A. C. Jones, James Sloss and A. C. Hargrove. It is further represented that Adams, Loomis and Stanton, under a power reserved in the mortgage, have been substituted trustees under the second mortgage in the place of Rice, Carleton and Paine. (p. 463.)

This power is as follows: "In case of the death, resignation, or inability to act, of any trustee, the Board of Directors may appoint a successor, and failing to appoint, any court of competent jurisdiction may appoint to fill the vacancy, &c.; and such appointment by the Board or by the court shall invest the trustee so appointed with all the interest, estate, power, and authority in the premises, and subject him to the same obligation given and granted to the party of the second part herein." (pp. 478–9.)

These parties were all served with copy of this petition, and the decree of sale recites that it "appears to the satisfaction of the court, by the proper proof, that all the defendants named in the petition have been duly and legally served with a copy of the petition, the exhibits thereto, and the order of the court thereon, to show cause for more than ten days prior hereto." (p. 484.)

To sustain this averment of the nullity of the judgment and the purchase by the State on 22d April, 1872, no other evidence is offered of the proceedings except the petition for the sale, the order of the judge to show cause, and the decree for the sale. On these fragments of the record the case is rested

The trustees under the second mortgage are the proper representatives of the bond holders; besides three of the

bond holders were made parties. That the appellant, who held five bonds, had no notice is of no consequence whatever.

The bondholders being thus properly represented in the bankruptcy litigation, the decree rendered therein is conclusive, until reversed on error, not only on those who were *eo nomine* on the record, but on all the other bondholders represented by the trustees.

No effort has been made to reverse the decree, and it stands in full force and obligation.

The effect of this decree and purchase is to vest in the State the whole and absolute property of the company subject only to the lien of the first mortgage bonds, and so Wallace, the appellant, has no interest whatever in the litigation now before us.

It is further to be observed, in reference to this title of the State, that the complainants, who, in the original bill had assailed this purchase by the State, amended it on 23 August, 1872, by withdrawing all allegations against it. p. 414.

The stress of the argument is rested upon the allegation made in the cross-bill that: "At the time the rule to show cause against said railroad company in said proceedings, *no petition had been filed in the Clerk's office of said District Court.*" p. 459.

It is insisted also, that to maintain the proceeding, the record should show the petition, or otherwise it will be regarded as a nullity.

But on what ground is the allegation made that there was no petition?

The pleader says, that this is shown by "the order or decree of the Honorable Judge who granted such rule to show cause against said railroad company." And this rule is exhibited to support the averment. p. 481.

At page 463 is found the petition of the assignees in bankruptcy, praying they may be authorized to make sale of the mortgaged property free from the liens of the second and third mortgages, but subject to encumbrance of the first mortgage, in the manner prescribed by the general order for the sale of property not encumbered.

On this petition the district judge directed an order to be served on the parties named therein "to show cause (on the day specified), if any there be, why the prayer of said petition should not be granted."

By what process of reasoning it can be maintained that this rule sustains the averment that the initiatory petition was never filed, it is difficult to comprehend, without, indeed, we could reach the absurd conclusion that as the rule was silent as to this petition, *ergo*, it did not exist.

To have raised the question whether the record would be fatally defective if it did not affirmatively appear that such petition had been filed, it was necessary that an exemplified copy of the whole proceedings should have been exhibited.

A decree adjudging the corporation to be a bankrupt is in the nature of a decree *in rem*, and where the court has acquired jurisdiction it can only be assailed in a direct proceeding. (91 U. S., 656.)

We have said that in the petition for sale the assignees stated that Rice, Carleton and Paine, trustees, under the second mortgage had been substituted by Adams, Loomis, and J. C. Stanton.

This is evidently an error, as the persons last named were trustees under the first mortgage.

The new trustees under the second mortgage, are Rice, Lippit, and D. N. Stanton. They appear in that capacity in all the legislation. (See exhibit 20, p. 285.)

The parties therefore who were really notified were the several second-mortgage bond-holders named in the petition, the trustees of the first-mortgage bond-holders and the corporation.

In the order of sale the assignees were directed to give the greatest publicity to the non-resident by advertisement in two daily journals in New York, two in Boston, one in Washington, two in Mobile, and one in Montgomery, Selma, and Huntsville, Alabama. 485.

That these proceedings were well known to Wallace, is evident from his testimony found at page 133, in which he states his residence at Selma, that his occupation was railroading; that he was superintendent of the A. & C. Road from July, 1871, to January, 1872; and that—

Gindrat, while receiver, had transferred to him an engine of the said road as collateral security for an indebtedness due to him.

All these circumstances, establishing his identification with the road, fully disprove the allegation in his cross-bill, "*that he had no opportunity to resist the same.*"

As all the second bondholders who were known to the assignees were directly made parties to these proceedings, and the non-residents were notified by publication, it is submitted that the court had jurisdiction to order the sale; and, though its judgment might be held to be erroneous, it cannot be treated in a collateral proceeding as a nullity.

Mandeville vs. *Riggs*, 2 Pet., 482.

But, admitting the judgment to be void, and the decree upholding it to be therefore erroneous, the only effect produced would be a modification of the decree in this particular. The complainant has no interest in the question, for the decree establishes the priority of the first-mortgage bondholders.

This court would therefore render such a decree as the court below should have made.

Receivers' certificates.

It is denied, p. 57, that the recivers' certificates directed by Mr. Justice BRADLEY to be issued, constitute a lien upon the property of the road.

The bill prayed for the appointment of a receiver with power to *protect and improve the road, and for this purpose to borrow money, &c.*

If in any case such a power as was here exerted could be exercised, it must be justified in the case before us. The bill itself shows the extraordinary embarassment of the road, and the voluminous record of over six hundred pages, is largely taken up with affidavits which show the necessity of the exercise of this power.

This order of 28 August 1872, is set forth at page 415, and this was preceded by an agreement signed by the attorney of the second-mortgage bond-holders on 27 May, 1872, p. 164, by which it was stipulated that receivers may be appointed as "*prayed for in said bill of complaint.*"

The necessity of this order was admitted by all parties in interest. Nothing less could save the road from utter wreck.

Wallace himself, in the conclusion of his cross-bill filed in 1873, after the appointment of the receivers, prays the court to "continue to hold the property in the hands of the receivers, and that it will continue to direct and control them in the administration thereof," p. 462.

In the absence of any objection having ever been made by him in the court below as to the power conferred upon the receivers to issue certificates which should constitute a prior lien, his prayer must be regarded as an

express admission of the propriety of the order in all its parts.

This, like the question made as to the endorsement of the company to pay in coin, is for the first time raised in this court.

We have thus noticed the main features of the appellant's argument, and we submit that—

As the answer of Wallace does not deny, but expressly admits the prior lien of the first mortgage as to all the bonds, which were bona fide issued under it, and as the decree only directs that the proceeds of the sale shall be applied "to the payment of such of the first mortgage bonds as may be reported by the master in this cause to have been bona fide issued, and may be outstanding and unpaid, and the interest warrants or coupons due and owing as aforesaid upon such bonds as may have been bona fide issued"—reserving the surplus of any "to be subject to such order and priority of distribution as the court shall hereafter establish and decree for that purpose"—Wallace has no cause of complaint, and no right to ask for the reversal of the decree.

Finality of the Decree.

The question is submitted to the court whether the decree is final within the authority of the case of Railroad Co. *vs.* Levasey, 23 Wall., 406.

P. PHILLIPS,
W. A. MAURY,
For Appellee.